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**THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION**



*Victoria F. Sheehan
Commissioner*

*William Cass, P.E.
Assistant Commissioner*

Bureau of Environment
May 11, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

In accordance with the requirements approved by Governor and Executive Council on November 18, 2016 (Item #28), and January 8, 2020 (Item #9), authorize DOT to continue to make payments to the Department of Environmental Services (DES) (Vendor #177894) for permit application fees, and in lieu mitigation fees pursuant to RSA 482-A, and RSA 483-B for DOT construction projects and maintenance activities requiring fill and dredge in wetlands and other areas under the jurisdiction of RSA 482-A, as well as impacts to the protected shoreland of surface waters. The DOT requests that these payments be approved and effective upon Governor and Executive Council approval through June 30, 2023.

Funding for this request is contingent upon the availability and continued appropriation of funds in FY 2022 and FY 2023.

EXPLANATION

Pursuant to RSA 482-A, *“no person shall excavate, remove, fill, dredge, or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department [of environmental services].”* The law includes prescribed fees for such impacts which DES uses to fund delivery of this fee funded permitting program. In addition, to compensate for the loss of jurisdictional areas, DES adopted rules that require mitigation for major impact projects, certain minor impact projects with jurisdictional impacts of 10,000 square feet or greater, and projects involving stream impact (CHAPTER Env-Wt 800). The ARM Fund authorizes DES to collect mitigation funds in lieu of wetland restoration, wetland creation, or upland buffer preservation, as part of a wetlands permit application. These funds are then pooled by DES with payments from other permit applications to fund projects that have greater conservation value within the same watershed. The ARM program was authorized in legislation that became effective in August 2006.

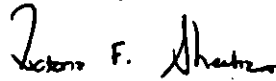
Pursuant to RSA 483-B:5-b, I, *“No person shall commence construction, excavation, or filling activities within the protected shoreland without obtaining a permit from the department [of environmental services] to ensure compliance with this chapter...”* The law includes prescribed fees for permit applications based on the amount of impact to the protected shoreland.

Having the flexibility for these payments is crucial to the nature of the work performed and completed by DOT. Continued approval of this method will ensure the timeliness of project and maintenance work, as the DOT cannot begin work on a project within RSA 482-A or RSA 483-B jurisdiction without permits or without having made required ARM Fund payments. This reporting system further assists the Governor and Executive Council in understanding this permitting component of the DOT's work.

In addition, and as approved by the Governor and Executive Council on November 18, 2016 (Item #28), and January 8, 2020 (Item #9), at the conclusion of FY 2021 an informational item will be provided identifying the permit fees and ARM Fund payments made during FY 2021, and all future years approved under this memorandum.

Your approval of this resolution is respectfully requested.

Sincerely,



Victoria F. Sheehan
Commissioner

VFS/ktn
Attachments

27-May-21

DES Payments Summary (RSA 482-A)

FY	Application Fee	ARM Fund	Total
2020	\$137,038.80	\$219,286.63	\$356,325.43
2019	\$101,907.60	\$1,392,372.19	\$1,494,279.79
2018	\$54,823.00	\$2,994,122.16	\$3,048,945.16
2017	\$53,032.60	\$364,129.44	\$417,162.04
2016	\$94,130.20	\$2,194,227.28	\$2,288,357.48
2015	\$45,879.40	\$731,656.33	\$777,535.73
2014	\$55,442.80	\$934,453.93	\$989,896.73
2013	\$66,621.60	\$0.00	\$66,621.60
2012	\$47,081.60	\$152,569.50	\$199,651.10
2011	\$57,053.60	\$165,692.62	\$222,746.22
Total	\$713,011.20	\$9,148,510.08	\$9,861,521.28

DES Payments Summary (RSA 483-B)

FY	Application Fee
2020	\$14,682.40
Total	\$14,682.40