



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

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

Bureau of Environment
 December 11, 2019

REQUESTED ACTION

Authorize the Department of Transportation (DOT) to make payments to the Department of Environmental Services (DES) (Vendor #177894) for permit-related fees pursuant to the Shoreland Water Quality Protection Act (RSA 483-B), for DOT construction projects and maintenance activities requiring impacts to the protected shorelands of the state. The DOT requests that these payments be approved and effective upon Governor and Executive Council approval through June 30, 2021.

Funding for this request is contingent upon the availability and continued appropriation of funds in FY 2020 and FY 2021.

EXPLANATION

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.

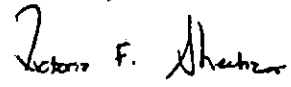
Until July 1, 2019 RSA 483-B:5-b, III read, "*Construction of public roads, public utility lines and associated structures and facilities, and public water access facilities shall be exempt from the permitting fees of paragraph I.*" This provision of law was introduced in 2008 (Chapter 5, Laws of 2008) and established a sunset clause repealing it effective on July 1, 2011. Chapter 224, Laws of 2011 extended the effective date of the repeal to July 1, 2016. Chapter 253, Laws of 2016 extended the effective date of the repeal to July 1, 2019. Chapter 346, Laws of 2019 (HB 4-FN-LOCAL) addressed certain permitting provisions of the Shoreland Water Quality Protection Act, however the repeal of the exemption from permitting fees provided by RSA 483-B:5-b, III was not included.

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

In addition, similar to the Governor and Executive Council-approved process for payments to DES for impacts in RSA 482-A jurisdictional areas (G&C Item #28, November 18, 2016), at the conclusion of FY 2020 an informational item will be provided identifying the permit fees made during FY 2019 and all future years approved under this memorandum. Prior to approval of this process, permit fees for work under the Shoreland Water Quality Protection Act were not required.

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan". The signature is written in a cursive style with a large initial "V".

Victoria F. Sheehan
Commissioner

VFS/ktn