



New Hampshire Coastal Program: Program Change Request March 2024



The New Hampshire Coastal Program (NHCP) is proposing a change to its federally-approved coastal management program. The Program Change request pertains to the establishment of the NHCP in state statute. Details of the Program Change are provided below.

Background

In 1971, the (former) New Hampshire Office of State Planning (OSP) initiated a comprehensive program to study coastal management options. Between 1974 and 1980, OSP received program development grants from the National Oceanic and Atmospheric Administration's Office of Coastal Zone Management (NOAA-OCZM), under Section 305 of the Coastal Zone Management Act, to assist in this effort. In 1981, OSP began to explore with NOAA-OCZM options for developing a state coastal program. In November 1981, based on review of state statutes and regulations, and in cooperation with affected state agencies, OSP issued the New Hampshire Coastal Program: Ocean and Harbor Area Hearing Draft. After the draft document was reviewed by local and regional officials, state and federal agencies, and members of the public, OSP submitted a revised program document to NOAA-OCZM in December 1981. In response, NOAA-OCZM issued a Draft Environmental Impact Statement in February 1982. Following public comment, NOAA-OCZM issued the New Hampshire Coastal Program Ocean and Harbor Segment and Final Environmental Impact Statement (FEIS) in April 1982. Included in the FEIS are the basic authorities for implementation of phase one of the New Hampshire Coastal Program (NHCP).

The first phase, the Ocean and Harbor Segment, of the NHCP covered the Atlantic Ocean, the Hampton-Seabrook Estuary and the Portsmouth Harbor portion of New Hampshire's coast. The boundaries of the Ocean and Harbor Segment included all coastal waters to the seaward limits of state jurisdiction and all land along the state's Atlantic Ocean shoreline from Seabrook to the Portsmouth/Newington town line, extending inland 1,000 feet or to the limits of the (former) Wetlands Board jurisdiction over tidal waters, whichever was further inland.

Phase two of the NHCP, which geographically expanded the NHCP to include all areas under tidal influence, is described in the New Hampshire Coastal Program and Final Environmental Impact Statement, (NHCP Final EIS) issued by NOAA's Office of Ocean and Coastal Resource Management (NOAA-OCRM) in July 1988. NOAA-OCRM's approval of phase two is discussed in findings issued on September 16, 1988.

In 2003 OSP submitted a request for a Program Amendment to NOAA-OCRM to further expand the NHCP's geographic boundary. Specifically, OSP requested to move the NHCP's inland boundary from that described in the NHCP Final EIS to one that is coterminous with the inland boundary of the 17 coastal municipalities. The change would encompass the entire jurisdiction of the municipalities including Dover, Durham, Exeter, Greenland, Hampton, Hampton Falls, Madbury, New Castle, Newfields, Newington, Newmarket, North Hampton, Portsmouth, Rollinsford, Rye, Seabrook and Stratham. NOAA-OCRM's approval of the Program Amendment is discussed in findings issued on December 16, 2003.

Since 2003, the NHCP has requested and received approval from NOAA's Office for Coastal Management (formerly NOAA-OCRM) for several Program Changes, including a Program Change in 2004 to transfer the administration of the NHCP from the New Hampshire Office of Energy and Planning to the Department of Environmental Services.

Although the NHCP was established in 1982, with NOAA-OCZM's issuance of the New Hampshire Coastal Program Ocean and Harbor Segment and Final Environmental Impact Statement, the NHCP wasn't recognized in state statute until nearly 40 years later. In 2021, the New Hampshire legislature passed Senate Bill (SB) 146 (see Appendix A) which, among other things, "*...established within the department of environmental services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone Management Act.*" SB 146 also recognized the NHCP as "*...the entity charged with implementing 16 U.S.C. section 1456 and 15 C.F.R. Part 930.*" SB 146 became effective July 1, 2021, and is codified in state statute as RSA 485-I.

Proposal

The NHCP hereby requests a Program Change to incorporate RSA 485-I:2 (Program Established) and RSA 485-I:3 (Federal Consistency) into the NHCP. It should be noted that the majority of the language in RSA 485-I:2 is taken directly from Section 303 of the Coastal Zone Management Act (16 U.S.C. § 1452). The NHCP finds that the proposed Program Change constitutes a change to the Authorities and Organization (Subpart E) program approval area of the Coastal Zone Management Program Regulations (15 CFR Part 923). Moreover, the NHCP finds that the proposed Program Change is non-substantive and minor in scope, as described in § 923.82(c)(1). The proposed Program Change does not alter the NHCP's structure or responsibilities, nor will it change New Hampshire's coastal zone boundary or any of the NHCP's enforceable policies. In addition, the NHCP finds that the proposed Program Change meets each of the program change decision criteria identified in § 923.84. Furthermore, it should be noted that the proposed Program Change was not developed as a necessary action pursuant to section 312 of the Coastal Zone Management Act (Review of performance).

NHCP has determined that the proposed Program Change will not impact the following:

- 1) Resources or interests of any federally-recognized Indian Tribes. It should be noted that there are no federally-recognized tribes in New Hampshire.
- 2) Threatened or endangered species listed under the Federal Endangered Species Act.
- 3) Historic properties designated under the National Historic Preservation Act.
- 4) Essential fish habitat designated under the Magnuson-Stevens Fishery Conservation and Management Act.
- 5) Marine mammals managed under the Marine Mammal Protection Act.

APPENDIX A

CHAPTER 208
SB 146-FN - FINAL VERSION

SENATE BILL **146-FN**

AN ACT adopting omnibus legislation relative to the environment.

SPONSORS: Sen. Watters, Dist 4

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. **Establishing the coastal program administered by the department of environmental services.**
- II. Establishing a statewide solid waste disposal reduction goal.
- III. The prevention of zoonotic disease transmission.
- IV. Tidal waters.
- V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.
- VI. Public use of coastal shorelands.
- VII. Addressing impacts to other water users from new sources of water for community water systems.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

APPENDIX A

CHAPTER 208
SB 146-FN - FINAL VERSION

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to the environment.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 208:1 Sponsorship. This act consists of the following proposed legislation:

2 Part I. LSR 21-0255, establishing the coastal program administered by the department of
3 environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray,
4 Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar, Rock 21; Rep. Spang, Straf
5 6.

6 Part II. Extending the deadline for the PFAS firefighting foam take-back program.

7 Part III. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored
8 by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf
9 17.

10 Part IV. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4;
11 Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson,
12 Rock 36.

13 Part V. LSR 21-0823, establishing a surcharge on certain saltwater licenses and establishing
14 a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters, Prime/Dist 4; Sen.
15 Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

16 Part VI. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen.
17 Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

18 Part VII. HB 235, addressing impacts to other water users from new sources of water for
19 community water systems, sponsored by Rep. M. Pearson, Rock 34; Rep. Guthrie, Rock 13; Rep.
20 Green, Rock 13; Rep. Welch, Rock 13; Rep. Hobson, Rock 35; Rep. Weyler, Rock 13; Rep. Salloway,
21 Straf 5; and Sen. Birdsell, Dist 19

22 208:2 Legislation Enacted. The general court hereby enacts the following legislation:

23 PART I

24 Establishing the coastal program administered by the department of environmental services.

25 208:1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H
26 the following new chapter:

27 CHAPTER 485-I

28 COASTAL PROGRAM AND FUND

CHAPTER 208
SB 146-FN - FINAL VERSION
- Page 2 -

1 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
2 and estuarine environments have significant ecological, commercial, cultural, and recreational
3 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
4 viability and improved resiliency of these environments and communities in which they are located
5 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
6 future generations.

7 **485-I:2 Program Established.** There is established within the department of environmental
8 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
9 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
10 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
11 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
12 compatible economic development. The coastal program should encourage and assist to support:

13 I. The protection of natural resources, including wetlands, floodplains, coastal and
14 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
15 zone.

16 II. The management of coastal development to minimize the loss of life and property caused
17 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
18 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
19 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
20 wetlands.

21 III. The management of coastal development to improve, safeguard, and restore the quality
22 of coastal waters, and to protect natural resources and existing uses of those waters.

23 IV. Public access to the coasts for recreation purposes.

24 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
25 preservation and restoration of historic, cultural, and esthetic coastal features.

26 VI. The coordination and simplification of procedures in order to ensure expedited
27 governmental decision making for the management of coastal resources.

28 VII. Continued consultation and coordination with, and the giving of adequate
29 consideration to the views of affected state and federal agencies.

30 VIII. The giving of timely and effective notification of, and opportunities for, public and
31 local government participation in coastal management decision making.

32 IX. Comprehensive planning, conservation, and management for living marine resources,
33 including planning for the siting of pollution control and aquaculture facilities within the coastal
34 zone, and improved coordination between state and federal coastal zone management agencies and
35 state and wildlife agencies.

36 X. The study and development of plans for addressing the adverse effects upon the coastal
37 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant

CHAPTER 208
SB 146-FN - FINAL VERSION
- Page 3 -

1 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,
2 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
3 Trends" in RSA 483-B:22, I.

4 **485-I:3 Federal Consistency.** The coastal program established under this chapter shall be the
5 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

6 **485-I:4 Coastal Fund.**

7 I. There is hereby established in the state treasury the coastal fund which shall be kept
8 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
9 continually appropriated to the department of environmental services for the purposes of this
10 chapter.

11 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
12 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
13 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
14 established under paragraph I.

15 III. The commissioner shall adopt rules relative to the distribution of money from the
16 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

17 **208:2 Effective Date.** Part I of this act shall take effect July 1, 2021.