



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

March 13, 2019

The Honorable Susan W. Almy  
Chair, Ways and Means Committee  
Legislative Office Building, Room 202  
Concord, NH 03301

**RE: HB 682, AN ACT establishing a water resources fund for certain application and permit fees**

Dear Chair Almy and Members of the Committee:

Thank you for the opportunity to comment on HB 682, as passed by the House, which establishes a water resources fund and increases existing fees and adds fees for uncharged services for the wetlands, shoreland, and alteration of terrain (AOT) programs.

The NHDES permit application fees for AOT, shoreland, and wetlands have not changed since they were set in statute in 2007. While at the same time, staffing for these programs has increased from 23 to 33 positions to keep pace with increasingly complex application reviews and to meet statutorily accelerated and mandated review timelines. Since 2007, the water resources programs have lost State General Funds and federal funds for five positions which has further increased reliance on fee funding. This bill is intended to allow NHDES to maintain its current level of staffing and associated level of service and is not intended to support any additional expansion.

Each of our neighboring states administer water resources permitting in different ways. In Massachusetts and Connecticut wetland permitting is done at the municipal level. In Rhode Island, Vermont, and Maine wetland permitting is done at the state level. Comparisons between the state programs is very challenging – like comparing ‘apples versus oranges’. Some states have additional levels of review beyond the water resources programs (Act 250 in Vermont and Site Development Law and Natural Resource Protection Act in Maine); other states integrate stormwater/ water quality with wetland reviews (RI, MA, and CT); and some states coastal (RI) and rivers reviews (VT and CT) are done under separate permits. Each of the other state programs receive greater state General Fund support. Comparing project examples (while understanding structural differences) from these sister state programs illustrates that the fees requested in this bill put New Hampshire in line with the other New England states.

The NHDES supports this bill with the proposed amendments as attached. Based on NHDES cost projections for these proposed changes, rulemaking authority will be necessary as early as 2021 to

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The Honorable Susan W. Almy

March 13, 2019

Page 2

ensure incremental fee adjustments keep pace with increased costs and to safeguard from any unanticipated drop in fee revenue. Additionally, it is only because of the cost sharing among the water resources accounts that NHDES will be able to maintain existing staffing at the reduced rate from the original bill. These changes will also enable NHDES to eliminate seven new fees originally proposed under this bill.

Thank you again for the opportunity to comment on HB 682. Should you have questions or need additional information, please feel free to contact either Assistant Water Division Director, Rene Pelletier ([Rene.Pelletier@des.nh.gov](mailto:Rene.Pelletier@des.nh.gov), 271-2951) or me ([Robert.Scott@des.nh.gov](mailto:Robert.Scott@des.nh.gov), 271-2958).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", written in a cursive style.

Robert R. Scott  
Commissioner

cc: Representative Spang; Senators D'Allesandro, Watters

<b>Project Example:</b> <ul style="list-style-type: none"> <li>• Construct new <b>700,000 square feet (SF)</b> commercial retail building,</li> <li>• Construct new parking lot (add total impervious area of 700,000 SF impact total)</li> <li>• Dredge and fill <b>45,000 SF of wetlands</b> and <b>cutting of additional 20,000 SF of wetlands</b></li> <li>• Cut and alter <b>40,000 SF of wetland buffer</b></li> <li>• Impacting significant wildlife habitat and significant vernal pools</li> <li>• <b>69,399 SF</b> within protected shoreland</li> </ul>		
<b>Fees Based on Category</b>	<b>NH (Proposed)</b>	<b>ME (2018 fee schedule)</b>
<b>Funding Source</b>	<b>92% Fee 8% General</b>	<b>30% Fee 70% General</b>
<b>Processing Times</b>	<b>Mandatory 50 days (Wetland/AOT) &amp; 30 days (Shoreland) Achieved w/ current staffing</b>	<b>Goal 90 days Guaranteed 120 days</b>
<b>Wetland NH Existing (\$9,000)</b>	\$18,000	\$1,499
<b>Stormwater NH Existing (\$4,240 w/ cap)</b>	\$10,625	\$606
<b>ME Site Development Law</b>	N/A	\$10,323
<b>Maine's Natural Resource Protection Act</b>	N/A	\$552 (Significant Wildlife Habitat) \$325 (Vernal Pools) \$553 (Buffer Cut)
<b>Shoreland Protection Existing (\$3,750 w/ cap)</b>	\$14,080	\$17,000
<b>Maine special fees Agency costs exceed annual fee schedule up to \$250,000</b>	N/A	\$26,000
<b>Total</b>	<b>\$42,705</b>	<b>\$56,858</b>

**Project Example:**

- Construct new **700,000 square feet (SF)** commercial retail building,
- Construct new parking lot (add total impervious area of 700,000 SF impact total)
- Dredge and fill **45,000 SF of wetlands** and **cutting of additional 20,000 SF of wetlands**
- Cut and alter **40,000 SF of wetland buffer**
- Impacting significant wildlife habitat and significant vernal pools
- **69,399 SF** within protected shoreland

<b>Fees Based on Category</b>	<b>NH (Proposed Fees)</b>	<b>VT (2018 fee schedule)</b>
<b>Funding Source</b>	<b>92% Fee 8% General</b>	<b>38% Fee 62% General</b>
<b>Processing Times</b>	<b>Mandatory 50 days Achieved w/ current staffing</b>	<b>Goal 90 days</b>
<b>Wetland NH Existing (\$9,000)</b>	\$18,000	\$33,750
<b>Wetland buffer</b>	N/A	\$10,000
<b>Stormwater NH Existing (\$4,240) w/ cap</b>	\$10,625	\$18,371
<b>Shoreland Protection NH existing (\$3,750) w/ cap</b>	\$14,080	\$34,650
<b>Vermont Act 250 (\$7.40/\$1,000 construction costs) Assumes \$3 million project cost</b>	N/A	\$22,200
<b>Total</b>	<b>\$42,705</b>	<b>\$118,971</b>

<p><b>Project Example:</b></p> <ul style="list-style-type: none"> <li>• Construct new <b>700,000 square feet (SF)</b> commercial retail building,</li> <li>• Construct new parking lot, (add total impervious area of 700,000 SF; impact total)</li> <li>• Dredge and fill <b>45,000 SF</b> of wetlands/ tidal buffer zone</li> <li>• Within 200' of mean high water mark in coastal zone</li> </ul>		
	<p><b>NH</b> <i>(Proposed Fees)</i></p>	<p><b>RI</b> <i>(2018 fee schedule)</i></p>
<p><b>Fees Based on Category</b></p>		
<p><b>Funding Source</b></p>	<p><b>92% Fee</b> <b>8% General</b></p>	<p><b>0% Fee</b> <b>100% General</b></p>
<p><b>Processing Times</b></p>	<p><b>Mandatory 50 days</b> Achieved w/ current staffing</p>	<p><b>90 days</b> (not met)</p>
<p><b>Wetland/coastal zone</b> NH Existing (\$9,000)</p>	<p>\$18,000</p>	<p>\$19,250**</p>
<p><b>Stormwater</b> NH Existing (\$4,240)</p>	<p>\$10,625</p>	<p>\$400</p>
<p><b>Total</b></p>	<p><b>\$28,625</b></p>	<p><b>\$19,650</b></p>

**Rhode Island Additional Regulatory Requirements:** Wetland and Stormwater reviews are done under the same application review process. For wetland impacts there is a 2-step process: 1) File a Request for Preliminary Determination application with a verified or unverified wetland edge; 2) DEM determines if the process represents a significant alteration and requires an Application to Alter a Freshwater Wetland Application. Requires 45 day public notice. After public comment period, DEM is required to issue a decision in 42 days (usually in 60 days).

**\*\*Note:** This fee is based on construction costs. This construction costs only assumes grading, and site clearing. The actual building construction costs have not been included and will substantially increase the fee.