

Language that might be used to add certain project types currently processed under the Permit by Notification process to the registration process as requested by the Structures on Public Waters Commission.

For discussion on January 27, 2020 at the meeting of the Structures on Public Waters Commission.

NHDES staff has generated this language at the request of the Commission. This shall not be interpreted as NHDES advocacy for the language herein.

Projects in Non-tidal Surface Waters Authorized under the Wetlands PBN Process

- Certain seasonal piers that provide 2 or fewer slips (includes rivers)
- Installation of a concrete anchor pad for seasonal piers (Separate Shoreland permit will be required per RSA 483-B)
- Installation of seasonal watercraft lifts.
- Installation of certain seasonal canopies.

Seasonal Pier Requirements:

The construction a seasonal dock providing no more than 2 slips, including previously existing slips, are proposed on the frontage and all of the following criteria are met: (Env-Wt 513.24)

(a) In addition to meeting the applicable approval criteria in Env-Wt 300, the department shall not approve an application for a docking structure unless the applicant demonstrates that the following criteria are met:

(1) The docking structure will not have an impact to which a reasonable person would object on:

- a. The ability of abutting owners to use and enjoy their properties; or
- b. The public's right to navigation, passage, and use of the resource for commerce and recreation;

(2) The docking structure has been designed, located, and configured to avoid impacts to water quality, aquatic vegetation, and wildlife and finfish habitat; and

(3) The docking structure will not adversely affect shoreline stability;

(Env-Wt 513.03)

(b) As required by RSA 482-A:3, XIII(a), and subject to (b) and (c), below, all docking structures shall be located at least 20 feet from an abutting property line, unless the applicant obtains and submits a copy of the written consent of the abutting property owner that has been signed by all parties and notarized with the registration.

(c) As specified in RSA 482-A:3, XIII(d), if abutters wish to apply for a common dock on or near their common property line then they shall submit a notarized written agreement signed by all property owners and recorded at the registry of deeds so as to be in the chain of title of each property owner.

(d) Docking structures may be perpendicular or parallel to the shoreline or extend at some other angle into a water body, depending on the needs of the landowners, factors related to safe navigation, and the difficulty of construction and any boat secured to such a dock shall not extend beyond the extension of the abutter's property line.

(e) The standard configuration for a docking structure in a watercourse shall be parallel to the shoreline. If the applicant wishes to have other than the standard configuration, the application shall include an explanation of the reason(s) for the proposed alternative based on the factors listed in (a)(1), above.

(Env-Wt 513.10)

- (f) The property shall have a minimum of 75 feet of shoreline frontage.
(Env-Wt 513.12)
- (g) For a property with less than 75 feet of water frontage, the docking structure shall be no larger than 4 feet by 24 feet.
(Env-Wt 513.11)
- (h) The docking structure shall be constructed in accordance with the submitted plans and specifications.
 - (i) A seasonal dock shall be:
 - (1) Installed after ice-out and removed prior to ice-in if on a lake or pond;
 - (2) Installed after May 15 and removed prior to November 15 if on a watercourse;
 - (3) Placed in the water in a way that does not obstruct navigation; and
 - (4) Removed from the water prior to applying any paint, stain, or other preservative coating, and not returned to the water until after such coating is dry.
(Env-Wt 513.22)

Concrete Anchor Pad Requirements

(Separate Shoreland permit will be required per RSA 483-B:5-b)

- (a) In addition to meeting the applicable approval criteria in Env-Wt 300, the department shall not approve an application for a concrete pad unless the applicant demonstrates that the following criteria are met:
 - (1) The concrete pad will not have an impact to which a reasonable person would object on:
 - a. The ability of abutting owners to use and enjoy their properties; or
 - b. The public's right to navigation, passage, and use of the resource for commerce and recreation;
 - (2) The concrete pad has been designed, located, and configured to avoid impacts to water quality, aquatic vegetation, and wildlife and finfish habitat; and
 - (3) The concrete pad will not adversely affect shoreline stability;
(Env-Wt 513.03) (Env-Wt 513.05)
- (b) As required by RSA 482-A:3, XIII(a), and subject to (b) and (c), below, all concrete pads shall be located at least 20 feet from an abutting property line, unless the applicant obtains and submits a copy of the written consent of the abutting property owner that has been signed by all parties and notarized with the registration.
(Env-Wt 513.10);
- (c) Be not more than 7 feet wide as measured along the shoreline;
- (d) Not be in prime wetlands or a duly-established 100-foot buffer;
- (e) Designed such that any adjacent bank stabilization, such as gravel or rip-rap, will not cause the total impact of the pad to exceed 10 LF along the bank;
- (f) For a concrete pad on a pond or lake, be constructed landward of the normal high water line; and
- (g) For a concrete pad on a watercourse, installed completely landward of the ordinary high water line.
(Env-Wt 513.13)

Requirements for the Installation of Seasonal Watercraft Lifts

(a) In addition to meeting the applicable approval criteria in Env-Wt 300, the department shall not approve an application for a watercraft lift unless the applicant demonstrates that the following criteria are met:

(1) The watercraft lift will not have an impact to which a reasonable person would object on:

- a. The ability of abutting owners to use and enjoy their properties; or
- b. The public's right to navigation, passage, and use of the resource for commerce and recreation;

(2) The watercraft lift has been designed, located, and configured to avoid impacts to water quality, aquatic vegetation, and wildlife and finfish habitat; and

(3) The watercraft lift will not adversely affect shoreline stability;

(Env-Wt 513.03) (Env-Wt 513.05)

(b) As required by RSA 482-A:3, XIII(a), and subject to (b) and (c), below, all watercraft lifts shall be located at least 20 feet from an abutting property line, unless the applicant obtains and submits a copy of the written consent of the abutting property owner that has been signed by all parties and notarized with the registration.

(c) Watercraft lifts may be perpendicular or parallel to the shoreline or extend at some other angle into a water body, depending on the needs of the landowners, factors related to safe navigation, and the difficulty of construction and any boat secured within such a lift shall not extend beyond the extension of the abutter's property line.

(d) The standard configuration for a watercraft lift in a watercourse shall be parallel to the shoreline. If the applicant wishes to have other than the standard configuration, the application shall include an explanation of the reason(s) for the proposed alternative based on the factors listed in (a)(1), above.

(Env-Wt 513.10);

(e) Subject to (d), below, the lift shall be installed in an existing legal boat slip;

(f) No additional boat slip shall be created by installation of the lift;

(g) Any seasonal lift shall be installed and removed the same as a seasonal dock; and

(h) If a lift is the only structure on the frontage, it shall:

(1) Be installed along the shoreline of the subject property; and

(2) Meet all requirements for a seasonal docking structure specified in this part.

(Env-Wt 513.21)

Requirements for the Installation of Certain Seasonal Canopies

(a) In addition to meeting the applicable approval criteria in Env-Wt 300, the department shall not approve an application for a seasonal canopy unless the applicant demonstrates that the following criteria are met:

(1) The seasonal canopy will not have an impact to which a reasonable person would object on:

- a. The ability of abutting owners to use and enjoy their properties; or
- b. The public's right to navigation, passage, and use of the resource for commerce and recreation;

(2) The seasonal canopy has been designed, located, and configured to avoid impacts to water quality, aquatic vegetation, and wildlife and finfish habitat; and

(3) The seasonal canopy will not adversely affect shoreline stability;

(Env-Wt 513.03) (Env-Wt 513.05)

(b) As required by RSA 482-A:3, XIII(a), and subject to (b) and (c), below, all watercraft lifts shall be located at least 20 feet from an abutting property line, unless the applicant obtains and submits a copy of the written consent of the abutting property owner that has been signed by all parties and notarized with the registration.

(c) Watercraft lifts may be perpendicular or parallel to the shoreline or extend at some other angle into a water body, depending on the needs of the landowners, factors related to safe navigation, and the difficulty of construction and any boat secured within such a lift shall not extend beyond the extension of the abutter's property line.

(d) The standard configuration for a watercraft lift in a watercourse shall be parallel to the shoreline. If the applicant wishes to have other than the standard configuration, the application shall include an explanation of the reason(s) for the proposed alternative based on the factors listed in (a)(1), above.

(Env-Wt 513.10)

(e) The new canopy shall be the only canopy on the frontage and:

(1) For surface waters 1,000 acres or larger, measure a maximum of 14 feet by 30 feet

(2) For surface waters 1,000 acres or smaller, measure a maximum of 12 feet by 25 feet

(Env-Wt 513.27)

SENATE BILL **627-FN**

1 Excavating and Dredging Permit; Registration Process for ~~Seasonal~~ Docks. Amend RSA 482-A:3, I(d)-(e) to read as follows:

(d) ***If an owner chooses to voluntarily register existing docking structures, at the time the owner registers the structures with the department, he or she shall also submit a nonrefundable fee of \$200.***

(e) At the time the applicant files the application with the department, the applicant shall provide written notice of the proposed project to:

(1) All abutters, as defined in the rules of the department, unless exempted in such rules, which shall be provided by certified mail or other delivery method that provides proof of receipt. The applicant shall retain such receipts and provide copies to the department upon request. The department shall have no obligation to verify the identity of abutters or their receipt of notice. Any abutter who has actual notice of the filing of an application shall have no cause to challenge the application based on failure to receive written notice. Nothing in this subparagraph shall prevent the department from taking appropriate action in the event an applicant fails to provide the required notice or provides false information.

(2) The local river management advisory committee if the project is within a river corridor as defined in RSA 483:4, XVIII, or a river segment designated in RSA 483:15. Such notice shall be sent by certified mail or other delivery method that provides proof of receipt. The applicant shall retain such receipts and provide copies to the department upon request. The local river management advisory committee shall, under RSA 483:8-a, III(a)-(b), advise the commissioner and consider and comment on the permit application.

~~(e)~~ (f) Beginning October 1, 2007, the department shall submit an annual report to the house and senate finance committees, the house resources, recreation and development committee, and the senate energy and natural resources committee relative to administration of the wetlands fees permit process established by this section.

2 Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3, IV-a to read as follows: IV-a.(a) ~~[Temporary]~~ Seasonal docks ~~[installed on any lake or pond]~~ shall be exempt from the permitting requirements of this section, provided that a notification is sent to the department by the owner of property that includes the name and address of the property owner, ***a copy of the deed for the property on which the dock is to be installed***, the municipality, the waterbody, ~~[and]~~ tax map and lot number on which the proposed dock will be located, ***and plans of the waterfront and structure to be installed showing that the requirements of this paragraph will be met.*** To qualify for an exemption under this paragraph, a ~~[temporary]~~ seasonal dock shall be:

- ~~[(a)]~~ (1) The only docking structure on the frontage;
- ~~[(b)]~~ (2) Constructed to be removed during the non-boating season;
- ~~[(c)]~~ (3) Removed from the lake bed for a minimum of 5 months of each year;
- ~~[(d)]~~ (4) Configured to be narrow, rectangular, and erected perpendicular to the shoreline **of a lake or pond or parallel to the bank of a river**;
- ~~[(e)]~~ (5) No more than 6 feet wide and no more than 40 feet long if the water body is 1,000 acres or larger, or no more than 30 feet long if the water body is **a river or** less than 1,000 acres **in size**;
- ~~[(f)]~~ (6) Located on a parcel of land that has 75 feet or more of shoreline frontage;
- ~~[(g)]~~ (7) Located at least 20 feet from an abutting property line or the imaginary extension of the property line over the water;
- ~~[(h)]~~ (8) Installed in a manner which requires no modification, regrading, or recontouring of the shoreline, such as installation of a concrete pad for construction of a hinged dock;
- ~~[(i)]~~ (9) Installed in a manner which complies with RSA 483-B; and
- ~~[(j)]~~ (10) Installed in a location that is not in, or adjacent to, an area that has been designated as a prime wetland in accordance with RSA 482-A:15.

(b) The repair or replacement of legally existing docking facilities in non-tidal waters shall be exempt from the permitting requirements of this section, provided that the structure has a valid registration filed with the department by the owner of the property, in accordance with RSA 482-A:11, XI, that includes the name and address of the property owner, the municipality, the waterbody, tax map and lot number on which the proposed dock will be located, photographs of all existing structures constructed or installed in the waterbody, and plans of the waterfront and structures to be repaired showing that the requirements of this paragraph will be met. To qualify for an exemption under this paragraph, the owner of the docking facilities shall provide evidence that the docking structures to be repaired:

(1) Have been:

- (A) Constructed and maintained in compliance with a permit issued under RSA 482-A or its preceding statutes; or***
- (B) Maintained in their current size, location, and configuration since January 1, 2000;***
- (2) Were not constructed to make land in public waters;***
- (3) Are not subject to RSA 482-A:26; and***
- (4) Are not the subject of ~~any municipal or state compliance action or pending civil action, department administrative order, consent decree, or court order that limits any aspect of the construction or use of the docking structures.~~***

(c) Registrations for the repair or replacement of legally existing docking structures shall be effective on the date issued and shall be valid for 5 years or until ownership of the property changes, whichever occurs first.

(d) Within 10 business days of receipt of a registration filing, the department shall issue a written notice to the property owner stating that the registration has either been accepted and issued a registration number, or rejected. If the department does not respond within the 10-day period, the property owner or agent may submit to the department a written request for a response. If the department fails to respond to the written request within an additional 5 days, the property owner or agent shall be deemed to have submitted a complete and qualifying registration and may proceed with the repair or replacement of the legally existing docking structures as presented in the registration filing. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A relative to water quality.

(e) Docking structures registered and maintained in accordance with this section shall be considered to be in compliance with this chapter.

3 New Paragraph; Administrative Provisions. Amend RSA 482-A:11 by inserting after paragraph X the following new paragraph:

XI. The commissioner shall adopt rules pursuant to RSA 541-A, establishing registration forms, the registration renewal process, and the display of registration numbers; and the registration process for the installation of seasonal docking structures and the repair or replacement of legally existing docking structures pursuant to RSA 482-A:3, IV-a.

4 Posting of Permits; Display of Registration Numbers. Amend RSA 482-A:12 to read as follows: 482-A:12 Posting of Permits, **Display of Registration Numbers**, and Reports of Violations. Project approval by the department shall be in the form of a permit, a copy of which the applicant shall post in a secured manner in a prominent place at the site of the approved project. The department shall mail a copy of such permit to the local governing body of the municipality where the project is located. **Any registration number issued by the department pursuant to RSA 482-A:3, IV-a(c) shall be prominently displayed on the lakeward face of the docking structures.** Any person proceeding without a posted permit shall be in violation of this chapter. All state, county, and local law enforcement officers are directed to be watchful for violations of the provisions of this chapter and to report all suspected violations to the department.

5 Effective Date. This act shall take effect January 1, 2021.

LBAO
20-2929
Revised 1/9/20

**SB 627-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT establishing a dock registration procedure.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input type="checkbox"/> General Resources Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Water

METHODOLOGY:

This bill establishes a procedure for voluntarily registering docks with the Department of Environmental Services. The Department indicates the bill would establish an optional registration process for all docking structures either built in compliance with a permit or which has been maintained at the same size and in the same location and configuration since January 1, 2000. The new registration process would allow docking structure owners to repair the structures without going through the current permitting process in RSA 482-A. Since the Department cannot predict how many individuals may choose to utilize the new voluntary process, the impact on wetland fee restricted revenue is indeterminable. The Department assumes existing staff and computers would be adapted to implement these changes without additional cost. There would be no impact on county or local governments.

AGENCIES CONTACTED:

Department of Environmental Services