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# ENVIRONMENTAL Fact Sheet

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## Transfers of Waterfront Properties with Septic Systems in the Protected Shoreland



Beginning September 1, 2024, [RSA 485 A:39](#) will require septic systems within the protected shoreland to be evaluated by a [state-licensed septic system evaluator](#) and, in some cases, a [state-permitted septic system designer](#) before any transfer of the waterfront property can take place. Failing septic systems identified through this process will need to be replaced.

The new law eliminates the requirement for waterfront site assessments, which were once mandatory for the purchase of waterfront properties with septic systems.

The new law shifts the responsibility for an evaluation to the buyer, not the seller. However, there are provisions that allow a buyer to accept an evaluation completed for the seller if they choose. This change will save buyers and sellers from paying for redundant evaluations.

### What is the protected shoreland?

The [protected shoreland](#) includes all lands within 250 feet of the reference line of the following types of waterbodies:

- All lakes and ponds greater than 10 acres in size.
- All fourth-order and greater streams and rivers and most designated rivers, including sections less than fourth-order.
- All waters subject to the ebb and flow of the tide.

## **Why did the requirements change?**

Previously, waterfront site assessments told you how much wastewater could be treated by the soils on the lot, but did not include a detailed investigation regarding how the septic system was functioning. When septic systems are in failure and not functioning properly, untreated wastewater can pollute the groundwater, lakes and rivers. Such contamination poses health risks for people and wildlife over time since components of wastewater such as bacteria and viruses can cause illness, and phosphorus and nitrogen play a role in accelerating the growth of algal blooms and cyanobacteria.

## **What if the septic system is failing?**

If the licensed septic system evaluator or permitted designer determines that the septic system is showing signs of failure, then the buyer must have the septic system replaced within 180 days. The new law allows for extensions of up to 180 days if there are circumstances beyond the buyer's control, such as adverse weather conditions or closing dates. Buyers can also skip this entire process if they plan to have a permitted installer construct a new septic system. If a system is found to be showing signs of failure, the buyer must authorize the evaluator to notify NHDES and the local health officer. Then, once the system is replaced, the buyer must notify NHDES and the local health officer.

## **When do I need a septic system designer?**

A permitted septic system designer is needed for properties with septic systems that do not have state approval or if the system was approved before 1989. Septic system designers have the knowledge of soils and the elevation of the seasonal high-water table. For these older systems, designers must determine the elevation of the septic system relative to the seasonal high-water table to ensure it has the required separation. The pre-1989 cutoff was established because that is when the requirements for septic system designs were updated to require more thorough evaluations of soils and the water table.

## **How do I determine if a property is within the protected shoreland?**

If you are unsure whether a property or septic system is within the protected shoreland, you can use the [Wetlands Permit Planning Tool](#) to view the parcel boundaries relative to 250 feet of the [reference line](#) of public waters.

## **Where can I find more information?**

For more information, visit the [NHDES septic systems webpage](#). You may also contact the Subsurface Systems Bureau by phone at [\(603\) 271-3501](#) or by mail at 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095.

To find a permitted designer or installer, please visit the [Subsurface OneStop](#). To find a licensed evaluator, please visit the [Office of Professional Licensing and Certification](#). You can read full text of the new law at [gencourt.state.nh.us](#).