

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 485

NEW HAMPSHIRE SAFE DRINKING WATER ACT

Water Pollution Control

Section 485:23

485:23 Petition to Protect Water Supplies. –

I. Whenever any board of water commissioners, local board of health, local health officer or 10 or more citizens of any town or city have reason to believe that a public water or ice supply is being contaminated or is in danger of contamination, and that the local regulations are not sufficient or effective to prevent such pollution, they may petition the department to investigate the case, and to adopt rules under RSA 541-A as the department may deem necessary for the protection of the said supply against any pollution that in its judgment would endanger the public health. Citizens petitioning under this section shall designate a signatory of the petition as the person to whom the department shall send its response.

II. Whenever any board of water commissioners, local board of health, or other owner of a public water supply has reason to believe that a public water supply is in danger of being contaminated or is otherwise threatened and that an emergency condition exists such that a petition pursuant to paragraph I to the department and the adoption of rules would not adequately protect the water supply, the board or owner may petition the governor to declare a state of emergency for the public water supply. At the request of the governor, the department shall consult with the owner of the water supply and make a recommendation as to emergency protections that may be necessary. If the governor declares a state of emergency for a public water supply, those additional protections that the governor deems necessary shall be effective immediately and for the duration of the emergency. The declaration of a state of emergency for a public water supply shall not exceed 6 months. The governor may renew the declaration one time for up to 6 additional months upon further request by the original petitioner. At such time as any of the emergency protections are to become permanent, the department shall initiate rulemaking in accordance with RSA 485:24. Any protections in the governor's declaration shall be enforced in the same manner as rules adopted pursuant to RSA 485:24 or RSA 485:25 with violations of the protections subject to RSA 485:4 and RSA 485:58.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996. 2002, 141:1, eff. May 13, 2002.

EXHIBIT 5

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 485

NEW HAMPSHIRE SAFE DRINKING WATER ACT

Water Pollution Control

Section 485:24

485:24 Investigations; Rules. –

I. The department shall respond in writing to a petition filed under RSA 485:23, I, after due investigation, but not later than 30 days after receipt of the petition, informing the petitioners of the department's intended action. In response to a petition, or upon its own motion, the department shall adopt such rules under RSA 541-A as it may deem best to protect the water or ice supply against any dangerous contamination. If requested by the department, the local board of water commissioners, the local board of health, or the local health officer, shall enforce such rules in cooperation with the department.

II. In the case of water supplies any part of which may be outside the town or city concerned, the health officer of such town or city may act as an agent of the department for the enforcement of these rules when so designated by the department. The department may empower the board of water commissioners, local board of health, or local health officer and their agents of the affected municipality to enforce rules adopted under the provisions of this section.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996. 2002, 141:2, eff. May. 13, 2002.

PART Env-Ws 386 RULES FOR PROTECTING THE PURITY OF REGULATED WATERSHEDS

Env-Ws 386.01 Purpose. The purpose of this part is to recognize the importance of those surface water supplies that are used as sources of public water supply and to provide methods for reasonable watershed management so as to maintain high levels of water quality.

Env-Ws 386.02 Applicability to Regulated Watersheds. This part shall apply only to the particular watershed identified in the introductory paragraph(s) of each section. The rules in Env-Ws 386.01 through Env-Ws 386.04 shall apply to Env-Ws 386.10 through Env-Ws 386.69.

Env-Ws 386.03 Restriction of Activities Beyond The Setback From Streams and Shorelines.

(a) The rules in Env-Ws 386.10 through Env-Ws 386.69 shall also apply to restrict activity beyond the shoreline setback if the department determines that such activity would endanger water quality.

(b) The department shall consider the following factors when determining whether an activity beyond the shoreline setback would endanger water quality:

- (1) Type of contaminant;
- (2) Amount of contaminant generated by the activity;
- (3) Persistence of the contaminant;
- (4) Distance and topography between the contaminant locus and the water supply intake; and
- (5) Application of best management practices (BMPs) or best available treatment (BAT).

(c) If the department determines that, due to the type, amount, and persistence of the contaminant and the topography and distance between the activity that generates the contaminant and the water supply intake, the contaminant cannot be reduced to a safe level through the application of BMPs or BAT, the department shall issue a written notice advising the water supplier and the person undertaking the activity that the activity must be restricted to a specified distance from the water supply intake, with or without BMPs or BAT, so that the activity will not pose a threat to the water taken in by the water system.

Env-Ws 386.04 Waivers.

(a) Any person may request a waiver of a prohibition in any given watershed.

(b) Each request for a waiver shall:-

- (1) Be submitted to the department in writing;
- (2) Be signed by the applicant and by the owner of the affected property, if different from the applicant; and
- (3) Contain the information specified in (d), below.

(c) The signatures of the applicant and the affected land owner(s), if any, shall constitute a certification that the information provided is true, complete, and not misleading.

adjacent wetlands except by permission of, and under the direction of the appropriate board of selectmen as prescribed in RSA 485:54;

(15) A person shall operate off-highway recreational vehicles on the water or ice of Lake Waukewan or adjacent wetlands or upon any land of the Towns within the watershed in strict compliance with the laws of the state of New Hampshire, as defined in RSA 215-A. The use of any land belonging to any of the towns within the watershed or any frozen or non-frozen surface of Lake Waukewan or adjacent wetlands by the owner or operator of any OHRV shall be done at their own risk;

(16) A person shall not use highway motor vehicles on the waters or ice of Lake Waukewan or adjacent wetland except by written permission by the board of selectmen of the town where each entrance or exit is to be made;

(17) Nothing in these rules shall be construed to prevent access to Lake Waukewan for fishing purposes, so long as the intent of the rules is observed;

(18) A person shall not place any garbage, refuse or trash of any kind brought from home, camp or place of business in or near public waste containers. Refuse resulting from picnicking on or adjacent to the Lake Waukewan or adjacent wetlands shall be deposited in approved containers;

(19) A person shall not break bottles or deposit refuse or wastes of any description into Lake Waukewan or adjacent wetlands;

(20) A person shall only kindle charcoal fires or portable propane grills or maintained such within 75 feet of the Lake or adjacent wetlands;

(21) A person shall keep dogs and other pets on a leash while adjacent to the shoreline, shall not leave pets unattended, and shall not permit pets in the water within the area described in (b), above;

(22) A person shall not ride horse-back along the shoreline within the area described in (b), above; and

(23) A person shall not tent, camp or use of recreational vehicles overnight, or use trailers and campers within 125 feet of Lake Waukewan or adjacent wetland.

(i) The town of Meredith shall post a summary of the prohibitions contained in (h) above at all public access locations where persons might reasonably be expected to access Lake Waukewan or its tributaries. This posted summary may also contain any prohibitions enacted by local ordinance. A complete set of these rules shall be available and on file at the Center Harbor, Meredith and New Hampton town clerk's offices.

Env-Ws 386.50 Protection of the Purity of Pennichuck Brook and Its Watershed.

(a) The purpose of this section is to protect the purity of the water of the Pennichuck Brook pond system, which is the principal drinking water supply source for the city of Nashua and an important water supply source for other municipalities in the region receiving water from the Pennichuck Water Works system.

(b) This section shall apply within the Pennichuck Brook watershed above the Supply Pond dam which is located at approximate latitude 42°47'30", longitude 71°28'29", in:

- (1) The town of Amherst;
- (2) The town of Hollis;
- (3) The town of Merrimack;
- (4) The town of Milford; and
- (5) The city of Nashua.

(c) Any person violating this section shall, in accordance with RSA 485:26, be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(d) In accordance with the provisions of RSA 485:24, the health officers and the boards of health of the city of Nashua and the towns of Amherst, Hollis, Merrimack, and Milford and their duly authorized agents may act as agents of the department for the enforcement of this section in cooperation with the department.

(e) Where any provision of this section is in conflict with local ordinances, the more stringent provision shall apply.

(f) Any deviations from this section shall be by written consent of the department in accordance with Env-Ws 386.04. The provisions of this section shall not apply to employees of Pennichuck Water Works engaged in the performance of necessary duties for the protection and control of said stream and ponds.

(g) In addition to any prohibitions adopted by local ordinance, the prohibitions that apply in the Pennichuck Brook watershed described in (b), above, shall be as follows:

- (1) A person shall not build, continue or maintain any privy, pig-pen, stable or other building or structure in which horses, cattle, swine or other animals or fowls are kept within 75 feet of any of the above-named waters, meaning the high water mark, or within 75 feet of any bay, cove, or inlet thereof, or within 75 feet of any stream tributary to said ponds, brook, bays, coves or inlets;
- (2) A person shall not allow any, sink-water, urine, or water that has been used for washing or cleansing materials, persons or food, to run into said ponds or brooks or into any bay, cove or inlet thereof, or into any stream tributary thereto or into any excavation or cesspool in the ground or onto the surface of any ground within 75 feet of said pond's or brook's high water mark, or of any bay, cove, or inlet, or within 75 feet of any stream tributary thereto;
- (3) A person shall not throw or deposit any dead animal or fish or parts thereof, or food, or any article perishable or decable, or any dung, either human or animal kitchen waste, swill or garbage, into said ponds or brook, or leave or permit any such wastes to remain within 75 feet meaning the high water mark, or into any bay, cove, or inlet of said ponds or brook, or into any stream tributary thereto, or within 75 feet of such bay, cove or inlet stream or tributary ;
- (4) A person shall not construct any of the structures or carry any of the conditions described in (1), (2), or (3) above even though beyond the minimum of 75 feet, if the purity of the water thereby is endangered as determined by the department in accordance with Env-WS 386.03;

(5) A person shall not throw any sawdust or other waste from the cutting of timber, or allow any such waste to fall into said ponds or brook, or into any stream tributary thereto;

(6) A person shall not throw, deposit or allow to remain upon the ice of the waters of said ponds or brook or upon that of any bay, cove, or inlet thereof, or any stream tributary thereto, any matter, waste or materials such as are described in (2), (3), and (5) above; and

(7) A person shall not bathe or swim in said ponds or brook.

(h) Pennichuck Water Works shall post a summary of the prohibitions contained in (g) above at all public access locations where persons might reasonably be expected to access Pennichuck Brook or its tributaries. This posted summary may also contain any prohibitions enacted by local ordinance.

Env-Ws 386.51 Protection of the Purity of the Merrimack River and Its Watershed – Manchester
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Env-Ws 386.52 Protection of the Purity of Mountain Pond, Gordon Hill Reservoir and Their Watershed.

(a) The purpose of this section is to protect the purity of the water of Gordon Hill Reservoir which is the principal drinking water supply source for the New Hampton Village Precinct.

(b) This section shall apply within the Mountain Pond/Gordon Hill Reservoir watershed above the dam which is located at approximate latitude 43°35' 55", longitude 71°38'21", in the towns of:

(1) Meredith;

(2) New Hampton; and

(3) Sanbornton.

(c) Any person violating this section shall, in accordance with RSA 485:26, be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(d) In accordance with the provisions of RSA 485:24, the board of water commissioners of New Hampton Village Precinct and its duly authorized agents, and the health officers and the boards of health of the towns of New Hampton, Meredith and Sanbornton and their duly authorized agents, may act as agents of the department for the enforcement of this section in cooperation with the department.

(e) Where any provision of this section is in conflict with local ordinances, the more stringent provision shall apply.

(f) Any deviations from this section shall be by written consent of the department in accordance with Env-Ws 386.04. The provisions of this section shall not apply to employees of the New Hampton Village Precinct engaged in the performance of necessary duties for the protection and control of Mountain Pond or Gordon Hill Reservoir.

(g) In addition to any prohibitions adopted by local ordinance, the prohibitions that apply in the Mountain Pond and Gordon Hill Reservoir watershed described in (b), above, shall be as follows:

(1) A person shall not build, continue or maintain any building or structure in which animals or fowl are kept, within 75 feet of Mountain Pond, Gordon Hill Reservoir and the connecting brook between said pond and reservoir or within 75 feet of any tributary thereto;