



PO Box 131 * Acworth NH 03601

CLA Water Quality Group **September 2024 Newsletter**

Have questions? Contact: CLwaterquality@gmail.com

New Rules for Septic System Inspections When Transferring Waterfront Property

If you're thinking of buying or selling your Crescent Lake property, you should be aware of some important changes to the laws regarding septic system inspections. These changes are to help prevent groundwater and lake pollution from untreated wastewater from improperly operating systems.

Effective September 1, 2024, septic systems within 250 feet of the lake must be evaluated by a state-licensed septic system evaluator before any transfer of waterfront property can occur. For septic systems without state approval or older than 1989, a state-permitted septic system design is required.

Responsibility for evaluation now falls on the buyer, with provisions for accepting evaluations completed by the seller. Failing septic systems must be replaced within 180 days after the transfer.

Your Realtor should be able to help you to navigate the new rules and to find a licensed professional for the evaluation.

For more information, see the attached Fact Sheet SSB-14 from DES. More information about septic systems is available online from <https://www.des.nh.gov/land/septic-systems>.

We have also attached a Q&A prepared by the New Hampshire Association of Realtors (NHAR) that may answer any questions you may have. Thank you for your involvement and interest to Protect Crescent Lake!



The following information is Provided by the New Hampshire Association of Realtors (NHAR)

Earlier this summer, the Governor signed into law [House Bill 1113](#), relative to septic evaluation (more commonly known as a “septic inspection”) prior to transfer of properties on the developed waterfront. Here are some FAQs prepared by NHAR on the new law.

What does the new law mean for sellers?

A seller should allow a buyer to perform a septic inspection. All other requirements are the responsibility of the buyer.

What does the new law mean for buyers?

A buyer must perform a septic inspection prior to transfer. Buyers can accept a septic inspection report from the seller as long as it was performed not more than 180 days prior to transfer.

What is a septic evaluation?

A septic inspection is performed by a licensed septic evaluator. Septic evaluation is not new and the terms “evaluation” and “inspection” are interchangeable. Septic inspections are already commonplace in real estate transfers.

Do all buyers have to perform a septic inspection?

No. The new law only requires inspections if any part of the septic system is within 250 feet of the reference line, meaning high-water mark of a lake or pond greater than 10 acres; coastal waters; and fourth order or higher rivers ([RSA 483-B:4](#)).

What if the property has a septic system which was never approved by NHDES or was approved prior to September 1989?

The buyer must also hire a New Hampshire permitted septic system designer to determine the elevation of the bottom of the effluent disposal area relative to the elevation of the seasonal high-water table. Based on this information, the New Hampshire permitted septic system designer can determine if the system is in failure.

What if the septic system is deemed to be in failure or showing signs of failure?

The system needs to be either repaired or replaced within 180 days after transfer. Both the seller and buyer are free to determine how and who will pay for the cost of the repair or replacement.

Does either the buyer or buyer agent need to notify the NH Department of Environmental Services of the inspection results?

No. That is the responsibility of the licensed septic evaluator.

What if the buyer is planning to replace or remove the septic system anyway? Do they still need to get an inspection?

No. The buyer is not required to comply if they will replace or repair the septic system within 180 days of the transfer of the property. The buyer will need to notify NHDES and the local health officer that a septic system evaluation was not performed because the system will be replaced.

Why was the legislation passed?

Sponsors of the bill cited increasing cyanobacteria outbreaks as the reason septic systems need to be functional, so runoff from a failed system does not contribute additional phosphorous loading in our waterways.

Where can I find more information?

Contact the NH Department of Environment Subsurface Systems Bureau at 603-271-3501

ENVIRONMENTAL Fact Sheet



29 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • www.des.nh.gov

SSB-14

2024

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 they 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](#).