

Vermont Department of Environmental Conservation (DEC)

Shoreland Permit Program

Fact Sheet for Wastewater System and Potable Water Supply Designers and Installers

June 2014

This fact sheet summarizes the requirements of the Shoreland Protection Act (10 V.S.A. Chapter 49A, the “Act”), which regulates clearing and construction of impervious surfaces on lake shoreland parcels, and describes how those requirements interact with the requirements of the Wastewater System and Potable Water Supply Rules (WW Rules). The Act takes effect on July 1, 2014.

The Act requires Shoreland Permits for development activities proposed to occur within 250 feet of the shoreline (mean water level) on Vermont lakes and ponds greater than 10 acres in size, unless there is a permit exemption.

The installation and maintenance of wastewater systems and potable water supplies are exempt under the Act. However, if a project includes a wastewater system or potable water supply and the construction of a building or structure, then a Shoreland Permit or Registration will likely be required.

IMPORTANT: Landowners need to be aware that the area cleared for the installation and maintenance of a wastewater system or potable water supply will count towards the overall total “cleared area” on the “parcel” under the Act and therefore may affect their ability in the future to clear or construct impervious surfaces (including the construction of buildings or structures) within 250 feet of the shoreline.

Other Key Information:

- “Cleared area” means an area where existing vegetative cover, soil, tree canopy, or duff is permanently removed or altered. (Note, vegetation management conducted according to the Vegetation Protection Standards in Section 1447 of the Act does not count towards a parcel’s cleared area.)
- “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.
- If a landowner is proposing to create impervious surface or cleared areas in addition to that necessary for a wastewater or water supply system within 250 feet of the shoreline, the landowner will need a Shoreland Permit or Registration prior to development (unless a different exemption applies). The Act lists a number of actions that are exempt from these requirements. **Landowners are strongly encouraged to consult with the Shorelands Program before they apply for Wastewater System and Potable Water Supply Permits (WW permits) and other permits to avoid delays and potential confusion.**

- If a landowner needs both a Shoreland Permit or Registration and a WW Permit, the landowner should consult with the Shoreland Program prior to conducting any soil investigation that includes test pits and then **apply for both permits at the same time**. If both permits are needed, the Drinking Water and Groundwater Protection Division (DWGPD) will not issue the WW permit until the Shoreland Permit Program issues its permit or receives a valid registration in order to ensure both permits are consistent.
- At the time a designer submits an application for a WW Permit for a project within 250 feet of the shoreline, the DWGPD will notify the Shoreland Program of the application.
- **Landowners are strongly encouraged to be good lake stewards and to site wastewater and water supply systems in accordance with the standards in the Shoreland Protection Act.** That means siting systems at least **100 feet back** from the shoreline and siting them **in areas that are already cleared** if possible.
- Siting new systems in existing cleared areas is highly encouraged so long as the location complies with the WW Rules. As noted above, clearing for the installation or maintenance of a wastewater system or potable water supply will count towards the total cleared area on a parcel. This includes clearing for test pits or other exploratory work unless the clearing is restored to meet the vegetative cover requirements of the Act in areas where the system is not constructed. Cleared areas for test pits or other exploratory work that is not part of the installed or maintained location of the wastewater system or potable water supply that is allowed to naturally revegetate and is subsequently managed by the landowner per the requirements of the Act shall not be counted towards a parcel's cleared area.
- A "lot" as defined by the WW Rules may be only a subset of a "parcel" as defined by the Act. If a landowner owns land contiguous to the "lot" boundaries as those boundaries are defined for the purposes of the WW Rules, that contiguous land may be counted as part of the landowner's "parcel" for the purposes of the Act. It's important to note that the Act considers all impervious surface and cleared areas that exist and that are proposed on the entire "parcel" located within 250 feet of the shoreline.
- Before subdividing property, **landowners should be aware that a parcel created after July 1, 2014 that is not capable of meeting the standards in Section 1444 of the Act is not developable.** Note that Section 1444 of the Act requires that **new cleared areas and impervious surfaces be no closer than 100 feet to the shoreline.** If a parcel is created after July 1, 2014 and proposed development cannot meet the requirements of Section 1444, then activities on the parcel will be limited to creating cleared area or impervious surface that meets the requirements for a registration or exemption.

- One key provision of the Act is the transition provision:

The first part of the transition provision covers projects that have obtained all applicable local, state, and federal permits before July 1, 2014. The Act allows those permitted projects to be completed at any point in the future without obtaining a Shoreland Permit. Please note that future activities that would require new permits or permit amendments may trigger jurisdiction under the Shoreland Program.

The second part of the transition provision covers complete applications for all applicable local, state, and federal permits. The Act allows projects to commence substantial construction (see bullet point below) of a cleared area or impervious to occur within two years of the date that all applicable permits become final provided:

1. all required applications are filed and are administratively complete before July 1, 2014; and
 2. there are no permit amendments or new activities that would trigger new permit requirements.
- The Shoreland Permit Program interprets “commence substantial construction” to mean that: (1) if a project requires foundation work, that work is at least partially completed, (2) if a project requires clearing, the clearing has been completed, and (3) if neither (1) nor (2) are applicable, all necessary grading for the project has been completed.
 - Projects subject to the requirements of Act 250 are exempt from needing Shoreland Permits and Registrations.

Frequently Asked Questions and Answers

- Q1 A landowner has a seasonal camp and wants to convert the camp to a year round residence. The conversion needs a WW Permit. There is no new impervious surface or cleared area other than for a replacement wastewater system or water supply at the time of the application for the WW Permit. Is a Shoreland Permit needed prior to issuing the WW Permit?
- A1 No, a Shoreland Permit is not required because the only physical change to the lot is the installation of a supply or system. Note, if there are changes made to the camp at the time of the conversion that expand the footprint, a Shoreland Permit or Registration will be required.
- Q2 A landowner has a Shoreland Permit and a WW Permit for a residence and wants to subdivide the parcel into a lot with the residence and an undeveloped lot. Does the Shoreland Permit need to be amended prior to obtaining the WW Permit?

- A2 Yes, a new or amended Shoreland Permit will be required. A landowner with an existing Shoreland Permit will need to review their existing permit conditions to determine if further subdivision will be allowable based upon the percentage of existing impervious or cleared areas located on the parcel and that are subject to the Shoreland Permit coverage. In addition, the landowner may be creating two new parcels that may be non-conforming under the Shoreland Act and therefore may not be able to obtain a Shoreland Permit for new impervious surfaces or cleared areas after July 1, 2014.
- Q3 A landowner is installing a new septic tank and pump station that have access risers that terminate above ground elevation. The tank and station may or may not require a WW Permit. Are the tops of these components new impervious surfaces?
- A3 Yes. Any surface for which precipitation runs off rather than infiltrates is considered an impervious surface, more specifically defined in the Act, which may include risers or other infrastructure. Impervious surfaces associated with a wastewater system or water supply are not subject to a permit or registration under the Act. However, landowners need to be aware that the impervious area associated with a wastewater system and water supply will count towards the overall total “impervious surface” on the “parcel” under the Act and therefore may affect their ability in the future to construct impervious surfaces (including the construction of buildings or structures) within 250 feet of the shoreline.
- Q4 A landowner has an existing residence that is being replaced with a new residence after July 1, 2014. The new residence is not on the footprint of the existing residence but is within 50 feet of the existing residence therefore exempt from needing a WW Permit. Is a Shoreland Permit required for the new residence?
- A4 Yes, this is new impervious surface and therefore needs a Shoreland Permit.
- Q5 A landowner is installing a new septic tank and pump station or water storage tank that will require clearing within 250 feet of shoreline after July 1, 2014. The tank and station may or may not require a WW Permit. Is this clearing counted towards the overall cleared area requiring either a Shoreland Permit or Registration?
- A5 Yes, the cleared area counts toward the overall cleared area on the parcel under the Act.

Specific information on the Shoreland Protection Act can be found on DEC’s Shoreland Permit Program website:

http://www.vtwaterquality.org/permits/htm/pm_shoreland.htm.

Additional information can be obtained by contacting the program directly at:

ANR.WSMDSshoreland@state.vt.us; or Dan Homeier at (802) 490-6196