

# RMAC 2014 Recommended Changes with 2015 Possible Additional Changes

Items highlighted in YELLOW have been approved by unanimous  
vote of the RMAC.

Items highlighted in GREEN are additional possible changes.

## TITLE L WATER MANAGEMENT AND PROTECTION

### CHAPTER 483 NEW HAMPSHIRE RIVERS MANAGEMENT AND PROTECTION PROGRAM

#### Section 483:1

**483:1 Statement of Policy.** – New Hampshire's rivers and streams comprise one of its most important natural resources, historically vital to New Hampshire's commerce, industry, and tourism, and the quality of life of New Hampshire people. It is the policy of the state to ensure the continued viability of New Hampshire rivers as valued ecologic, economic, public health and safety, and social assets for the benefit of present and future generations. The state shall encourage and assist in the development of river corridor management plans and regulate the quantity and quality of instream flow along certain protected rivers or segments of rivers to conserve and protect outstanding characteristics including recreational, fisheries, wildlife, environmental, hydropower, cultural, historical, archaeological, scientific, ecological, aesthetic, community significance, agricultural, and public water supply so that these valued characteristics shall endure as part of the river uses to be enjoyed by New Hampshire people. If conflicts arise in the attempt to protect all valued characteristics within a river or stream, priority shall be given to those characteristics that are necessary to meet state water quality standards.

**Source.** 1989, 339:1. 1990, 233:21. 2009, 201:3, eff. July 15, 2009.

#### Section 483:2

**483:2 Program Established; Intent.** – There is established within the department of environmental services the New Hampshire rivers management and protection program. It is the intent of the legislature that the New Hampshire rivers management and protection program shall complement and reinforce existing state and federal water quality laws, **including RSA 483-B**, and that in-stream flows are maintained along protected rivers, or segments thereof, in a manner that will enhance or not diminish the enjoyment of outstanding river characteristics pursuant to RSA 483:1. It is also the intent of the legislature that, through said program, the scenic beauty and recreational potential of such rivers shall be restored and maintained, that riparian interests shall be respected, and **notwithstanding the provisions of RSA 483-B**, that nothing in this chapter shall be interpreted to preempt any land and zoning authority granted to municipal bodies under RSA title LXIV.

**Comment [TS1]:** Additional text in 483:2 has been rejected by the RMAC, but will probably be added by Rep. Spang.

**Source.** 1989, 339:1. 1990, 233:1, eff. June 26, 1990.

### Section 483:3

**483:3 Rivers Coordinator.** – There is established in the department of environmental services, a state rivers coordinator, who shall be a classified employee qualified by reason of education and experience, and who shall administer the New Hampshire rivers management and protection program.

**Source.** 1989, 339:1. 2007, 285:1, eff. Sept. 1, 2007.

### Section 483:4

**483:4 Definitions.** – In this chapter:

I. "Advisory committee" means the rivers management advisory committee established in RSA 483:8.

II. "Agriculture" means agriculture as defined in RSA 21:34-a.

**II-a. "Aquatic connectivity" means the ability of aquatic organisms to move naturally within and among water bodies, riparian areas, and floodplains freely without barriers.**

**Comment [TS2]:** Added as required element of corridor mgmt. plans.

III. "Breached dam" means any dam which impounds water at less than 80 percent of its original design level at seasonal high flows and for which the original configuration of the dam can still be determined.

IV. "Channel alteration" means any human activity which changes the character of a river or stream channel including, but not limited to, filling, dredging, relocating, excavating, cleaning, deepening, widening, straightening, or riprapping.

V. "Commissioner" means the commissioner, department of environmental services.

VI. "Dam" means any artificial barrier, including appurtenant works, across a river which impounds or diverts water.

VII. "Department" means the department of environmental services.

VIII. "Designated river" means that portion of a river which has been specifically designated by the general court pursuant to RSA 483:15.

IX. "Existing dam" means any dam which has not deteriorated or been breached or modified

to the point where it no longer impounds water at 80 percent or more of its original design level at seasonal high flows.

IX-a. "Flowage right" means an easement to flow water over the land of others.

IX-b. **"Fluvial Geomorphology Assessment" means a survey of an identified length of river or stream to recognize and identify existing physical conditions, including but not limited to erosion, scouring, flooding, deposition, aggradation, and damming potential and their sources, and to support sound river management and restoration and mitigation decisions.**

**Comment [TS3]:** Added as required element of corridor mgmt. plans, but recommend changing text in 483:10 to "fluvial geomorphology" and utilizing the alternative definition (provided by Shane Csiki) here.

**"Fluvial Geomorphology" means a description of the physical forms and processes of a river or stream, including but not limited to bank erosion, bed scour, sediment aggradation, channel constrictions and modifications, based on robust historical and field data, that may be used to evaluate the impact of riverine hazards, and improve management of associated risks.**

X. "Free-flowing," as applied to any **designated** river or river segment, means existing or flowing **[in a natural condition]** without artificial impoundment, diversion, channel alterations, or other modifications **[and without consideration of]** **excluding** upstream flow management.

**Comment [TS4]:** Updated to incorporate managed nature of almost all of NH's rivers.

XI. "Instream public uses" means those uses which comprise the state's interests in surface waters including, but not limited to: navigation; recreation; fishing; storage; conservation; maintenance and enhancement of aquatic and fish life; fish and wildlife habitat; wildlife; the protection of water quality and public health; pollution abatement; aesthetic beauty; and hydroelectric energy production.

XII. "Interbasin transfer" means any transfer of water for use from one river drainage basin to another.

**XII-a. "Meander belt" means the width on either side of a river channel which the river can occupy through time as a result of migration.**

**Comment [TS5]:** Added as required element of corridor mgmt. plans.

XIII. "New dam" means any dam which requires the construction or enlargement of any impoundment or diversion structure.

XIV. "New hydroelectric power facilities" means the construction, operation, or installation of electric generating units at dams where no hydroelectric power generation has occurred for a period of 6 years or more.

XV. [Repealed.]

**XVI. "Protected instream flow" means a [constant minimum] stream flow [level] pattern defined with terms of flow magnitude, duration, frequency and timing that occurs within that stream's natural range and with its natural variability; and which is established to maintain water for present and future instream public uses.**

**Comment [TS6]:** Updated per Wayne Ives to reflect current use of term.

XVI-a. "Restore" means to return an ecosystem to a close approximation of its natural condition.

XVII. "River" means a flowing body of water including the tidal mouth of rivers whose salinity, flow, or level is influenced by the tides, or a segment or tributary of such water body.

XVIII. "River corridor" means the river and the land area located within a distance of 1,320 feet of the normal high water mark or to the landward extent of the 100 year floodplain as designated by the Federal Emergency Management Agency, whichever distance is larger.

XIX. "River drainage basin" means the **New Hampshire portions of USGS Hydrologic Unit Codes 0104 (Androscoggin), [Coastal] 0108 (Connecticut), 0107 (Merrimack), 01060003**

**Comment [TS7]:** Coastal was unclear, HUC codes added for specificity.

(Piscataqua), and 01060002 (Saco) river basins as delineated on a map compiled by the department.

Source. 1989, 339:1. 1990, 233:2. 1992, 261:8. 2007, 285:10. 2009, 201:4, 5, eff. July 15, 2009.

### Section 483:5

**483:5 Coordination With Federal Statutes.** – For the purposes of section 10(a)(2)(A) of the Federal Power Act, those rivers or segments designated under this chapter and any state or local *river corridor* management plans developed pursuant to this chapter shall constitute one element of the state comprehensive plan for river conservation and development. Designated rivers or segments shall constitute protected waterways under the provisions of the Public Utilities Regulatory Policies Act, section 210(j)(2), 16 U.S.C. section 824a-3(j)(2).

Source. 1989, 339:1. 1990, 233:3, eff. June 26, 1990.

### Section 483:6

#### 483:6 Nominations; Criteria. –

I. Any New Hampshire organization or resident may nominate a river or any segment or segments of such river for protection by submitting to the commissioner a description of the river or segment or segments of such river and its values and characteristics. The completed nomination shall be submitted to the rivers coordinator on or before June 1 in order for it to be considered in the next legislative session. This nomination shall include, but not be limited to, an assessment of fisheries; geologic and hydrologic features; vegetation; wildlife; historical and archaeological features; open space and recreation features and potential; water quality and quantity; dams, hydropower generation, buildings, and other manmade structures; riparian interests and public water supply, including flowage rights known by the nominating individual or group, and other pertinent instream and riverbank and tributary drainage area information. The nominating party shall hold at least one public meeting on the information prior to final submittal to the commissioner. The department shall encourage the nominating party to include tributary drainage area information in the nomination. The nominating party shall **publicly** advertise the meeting in cooperation with the rivers coordinator and shall give written notice to ~~riparian landowners and~~ the governing body of any municipality where segments of the river are located. The rivers coordinator shall provide assistance to the nominating party in the presentation of the nomination at the public meeting.

II. The rivers coordinator shall assist and cooperate with the nominator or nominating organization and shall, within 120 days of receipt of a nomination, review the nomination and prepare a recommendation for review by the commissioner under the criteria established in paragraph IV and adopted by rules under RSA 483:11, II.

III. The rivers coordinator, in cooperation with the advisory committee, shall hold at least one public hearing in a community along the nominated river or segment of such river to receive public comment on the nomination. Public hearing comments on the nomination, comments on the nomination from local boards and commissions, factors listed in RSA 483:6,

**Comment [TS8]:** Add text here, then not necessary to add text in 483:8-a III(c)

**Comment [TS9]:** This 2011 addition to statute is considered prohibitively and unnecessarily burdensome on volunteer nominating committees, especially when using a watershed approach to river nominations.

IV(a) as further defined in rules adopted under RSA 483:11, II, and other public comments on the nomination submitted to the rivers coordinator shall be considered by the rivers coordinator and the advisory committee when preparing a recommendation for review by the commissioner.

IV. The commissioner shall review the nomination within 45 days. The commissioner shall, in reviewing a nomination under this chapter, consider the following factors:

(a) Whether the river, or segment or segments of such river, contain or represent either a significant statewide, **regional**, or local example of one or more of the following:

- (1) **Scenic or recreational** *Geologic resources.*
- (2) **Open space or natural** *Wildlife resources.*
- (3) **Fisheries, wildlife, ~~v~~Vegetation and natural communities, and rare species or habitat.**
- (4) **Cultural, historical, or archaeological** *Fish resources.*
- (5) **Hydrological or geological resource** *Water quality.*
- (6) **Water quantity** *quality.*
- (7) **Scientific resource** *Riparian interests.*
- (8) **Community resource** *Existing and potential withdrawals and discharges.*
- (9) **Current and projected withdrawals, discharges, or both, by public utilities and commercial or industrial users** *Existing and potential hydroelectric resources.*
- (10) **Hydrologic resources, including natural flow characteristics.**
- (11) **Existing and potential recreational resources.**
- (12) **Public access.**
- (13) **Scenic characteristics.**
- (14) **Cultural, historical and archeological resources.**
- (15) **Open space.**
- (16) **Community resources.**
- (17) **Current land use and land use controls.**
- (18) **Scientific resources.**

(b) Public hearing comments on the nomination and other public comments submitted to the rivers coordinator.

(c) The recommendation of the rivers coordinator.

(d) The recommendation of the advisory committee.

V. If the commissioner, after reviewing a nomination and considering the factors in RSA 483:6, IV, determines that designation of the river, or segment or segments of such river, would be consistent with the purpose of this chapter, the commissioner shall forward the nomination to the general court for review and legislative approval according to RSA 483:7.

**Source.** 1989, 339:1. 1991, 338:6-8. 1992, 261:4. 1995, 219:1. 2009, 201:6. 2011, 32:1, eff. May 9, 2011.

## Section 483:7

### 483:7 Legislative Designation. -

I. Any nomination approved by the commissioner shall require review and approval by the general court prior to inclusion in the program. Such action shall be filed as a bill in the next

**Comment [TS10]:** List re-ordered for consistency with rules

legislative session following the nomination.

II. Any nomination which is forwarded to the general court for review and approval shall include:

- (a) A map showing the boundaries of the river or segment;
- (b) A report which specifies the values and characteristics which qualify the river or segment for designation; and
- (c) The classifications of the proposed designation pursuant to RSA 483:7-a.

**Source.** 1989, 339:1. 1990, 233:4, eff. June 26, 1990.

### Section 483:7-a

#### **483:7-a River Classification Criteria; Management. -**

I. Those rivers or segments designated for inclusion in the program shall be classified as one or more of the following:

(a) Natural rivers are free-flowing rivers or segments characterized by the high quality of natural and scenic resources. River shorelines are in primarily natural vegetation and river corridors are generally undeveloped. Development, if any, is limited to forest management and scattered housing. For natural rivers, the following criteria and management objectives shall apply:

- (1) The minimum length of any segment shall be ~~5~~ 3 miles.
- (2) Existing water quality shall be not lower than Class B level pursuant to the water quality standards established under RSA 485-A:8.
- (3) ~~The minimum distance from the river shoreline to a~~ Any paved road open to the public for motor vehicle use shall be *screened* ~~[250 feet, except where a]~~ *by the river bank, vegetative, or other natural barriers [exists which]* to effectively *conceal* ~~[screens]~~ the sight and sound of motor vehicles for a majority of the length of the river or segment.

(4) Management of natural rivers and segments shall perpetuate their natural condition as defined in this chapter and shall consider, protect, and ensure the rights of riparian owners to use the river for forest management, agricultural, public water supply, and other purposes which are compatible with instream public uses of the river and the management and protection of the resources for which the river or segment is designated.

(b) Rural rivers are those rivers or segments adjacent to lands which are partially or predominantly used for agriculture, forest management and dispersed or clustered residential development. Some instream structures may exist, including low dams, diversion works and other minor modifications. The following criteria and management objectives shall apply to rural rivers:

- (1) The minimum length of any segment shall be 3 miles.
- (2) Existing water quality shall be at least Class B level pursuant to the water quality standards established under RSA 485-A:8 or have the potential for restoration to that level.
- (3) There shall be no minimum distance from the shoreline to an existing road. Roads may parallel the river shoreline with regular bridge crossings and public access sites.
- (4) Management of rural rivers and segments shall maintain and enhance the natural, scenic, and recreational values of the river and shall consider, protect and ensure the rights of

**Comment [TS11]:** Accommodates small, low order natural river segments, esp. for watershed nominations.

**Comment [TS12]:** Accommodates scenic roads and watershed nominations.

riparian owners to use the river for agricultural, forest management, public water supply, and other purposes which are compatible with the instream public uses of the river and the management and protection of the resources for which the river or segment is designated.

(c) Rural-community rivers are those rivers or segments which flow through developed or populated areas of the state and which possess existing or potential community resource values such as those defined in official municipal plans or land use controls. Such rivers have mixed land uses in the corridor reflecting some combination of open space, agricultural, residential, commercial and industrial land uses. Such rivers are readily accessible by road or railroad and may include impoundments or diversions. The following criteria and management objectives shall apply to rural-community rivers:

(1) The minimum length of any segment shall be 3 miles.

(2) Existing water quality shall be at least Class B level pursuant to the water quality standards established under RSA 485-A:8, or have the potential for restoration to that level.

(3) Management of rural-community rivers and segments shall maintain and enhance the natural, scenic, recreational and community values of the river and shall consider, protect, and ensure the rights of riparian owners to use the river for such uses as agricultural, forest management, public water supply, residential, recreational, commercial, industrial, flood control, and other community uses which are compatible with the instream public uses of the river and the management and protection of the resources for which the river or segment is designated.

(d) Community rivers are those rivers or segments which flow through developed or populated areas of the state and which possess existing or potential community resource values, such as those identified in official municipal plans or land use controls. Such rivers have mixed land uses in the corridor reflecting some combination of open space, agricultural, residential, commercial and industrial land uses. Such rivers are readily accessible by road or railroad, may include existing impoundments or diversions, or potential sites for new impoundments or diversions for hydropower, flood control or water supply purposes, and may include the urban centers of municipalities. The following criteria and management objectives shall apply to community rivers:

(1) The minimum length of any segment shall be one half mile.

(2) Existing water quality shall be at least Class B level pursuant to the water quality standards established under RSA 485-A:8, or have the potential for restoration to that level.

(3) Management of community rivers and segments shall maintain and enhance the natural, scenic, recreational and community values of the river and shall consider, protect, and ensure the rights of riparian owners to use the river for such uses as agricultural, forest management, public water supply, residential, recreational, commercial, industrial, flood control and hydroelectric energy production purposes which are compatible with the instream public uses of the river and the management and protection of the resources for which the river or segment is designated.

II. The existence of limited exceptions to the criteria for a certain classification under this section shall not necessarily exclude a river or segment from that classification. The river or segment shall be examined as a whole, and the classification of such river or segment shall be based on the overall values and characteristics of such river or segment.

III. A designated river and its tributary drainage area rivers that are subsequently

**Comment [TS13]:** Several existing community segments are less than 1 mile.

designated shall be listed in the same paragraph in RSA 483:15. Each tributary river shall be named in a subparagraph under the main stem, and designated segments of each tributary shall be listed as further subparagraphs under each tributary.

Source. 1990, 233:5. 1991, 338:10, 11. 2011, 32:2, eff. May 9, 2011.

### Section 483:8

**483:8 Rivers Management Advisory Committee; Establishment.** – There is established a rivers management advisory committee appointed by the governor and council. All members shall be New Hampshire residents and the department shall request that nominating organizations select nominees representing diverse geographic areas of the state.

I. The advisory committee shall include:

(a) A representative of public water suppliers who shall be an officer or employee of any municipal or privately owned water works in the state *nominated by the New Hampshire Water Works Association.*

(b) A municipal officer nominated by the New Hampshire Municipal Association.

(c) A member of the fish and game commission.

(d) A representative [of] *nominated by* the Business and Industry Association [*chosen from a list of 3 nominees*].

(e) A representative of the *hydropower industry nominated by the* Granite State Hydropower Association *in consultation with the New Hampshire hydropower industry* [*chosen from a list of 3 nominees*].

(f) A conservation commission member *nominated* [*chosen from a list of 3 nominees submitted*] by the New Hampshire Association of Conservation Commissions.

(g) A representative of the conservation community [*chosen from a list of 3 nominees submitted*] *nominated* by the Society for Protection of New Hampshire Forests, *the* Audubon Society *of New Hampshire*, and the New Hampshire Wildlife Federation.

(h) A representative of recreational interests *nominated* [*chosen from a list of 3 nominees submitted*] by the New Hampshire Rivers [*Campaign*] *Council* and the Appalachian Mountain Club.

(i) A representative of historic/archaeological interests *nominated* [*chosen from a list of 3 nominees submitted*] by the New Hampshire Historical Society.

(j) A representative of the agricultural community *nominated* [*chosen from a list of 3 nominees submitted*] by the New Hampshire Farm Bureau Federation, the Northeast Organic Farming Association, and the New Hampshire Association of Conservation Districts.

(k) A representative of local river management advisory committees [*from a list of 3 nominees submitted*] *nominated* by the commissioner *from a list of members submitted by the local river management advisory committees.*

II. The director of the office of energy and planning, the executive director of the fish and game department, the commissioner of resources and economic development, the commissioner of the department of transportation, the commissioner of the department of safety, and the commissioner of the department of agriculture, markets, and food or their designees shall serve as nonvoting members of the committee.

**Comment [TS14]:** This section: clarifications and org. name updates.

**Comment [TS15]:** Rarely have 3 willing nominees to the RMAC, this language consistent with RSA 483-A (Lakes Program).



III. The terms of state agency members shall be the same as their terms in office. The members shall serve 3-year terms.

IV. Any vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Members may hold office until their successors are appointed and confirmed.

V. The committee shall elect a ~~chairman~~ **person and vice chairman** ~~person~~. Meetings shall be at the call of the ~~chairman~~ **person**, or at the request of 5 or more committee members. The rivers coordinator under RSA 483:3 shall serve as secretary and staff to the committee.

VI. The advisory committee shall report biennially and advise the commissioner, rivers coordinator, state agencies, **municipalities**, and the general court in implementing the purposes of this chapter.

**VI-a. The advisory committee, at its discretion, may provide testimony and advice on legislation and rules relevant to the management and protection of New Hampshire's rivers.**

**Comment [TS16]:** The RMAC already does this, just making it official.

VII. No state-owned property adjacent to or providing access to a river or river segment shall be recommended for disposal by the council on resources and development or the long range capital planning and utilization committee, whichever is the first point of review, except upon the review and recommendation of the advisory committee established under this section.

VIII. When attending to the duties of the committee, appointed members of the committee shall be eligible to receive mileage at the state employee rate, within the limits of the department's appropriations.

**Source.** 1989, 339:1. 1990, 233:7, 8. 1995, 130:4. 1999, 14:1. 2003, 319:9. 2004, 257:44. 2007, 285:2-4. 2009, 201:7, 8, eff. July 15, 2009.

## Section 483:8-a

### 483:8-a Local River Management Advisory Committees; Establishment; Duties.

I. The commissioner shall appoint a local river management advisory committee for each designated river or segment. Committee members shall be chosen from lists of nominees submitted by the local governing bodies of the municipalities through which the designated river or segment flows. ~~[The commissioner shall appoint at least one person from each municipality to the local river management advisory committee.]~~ All members of such committees shall be New Hampshire residents.

**Comment [TS17]:** Most committees have 1 or more towns that are consistently not represented despite efforts by the LAC and program staff.

II. Each committee shall be composed of at least **three (3)** ~~7~~ members who represent a broad range of interests in the vicinity of the designated river or segment. These interests shall include, but not be limited to, local government, business, conservation interests, recreation, agriculture, and riparian landowners. If an interest is not represented by the local governing bodies' nominations, the commissioner may appoint a member from the vicinity of the designated river or segment, to the local river management advisory committee who will represent that interest. County commissioners shall be permitted to nominate members to the local river management advisory committee in unincorporated towns or unorganized places. Upon the request of the committee, local governing bodies or county commissioners within

**Comment [TS18]:** Accommodates smaller rivers with few adjacent municipalities.

tributary drainage areas may submit nominees for appointment. Each member shall serve a term of 3 years **except when the committee is being established, for the purpose of creating staggered terms, the commissioner shall appoint members to one, two, or three year terms.**

**Comment [TS19]:** Requested by LACs, so that member turn-over is staggered.

III. The duties of such committees shall be:

(a) To advise the commissioner, the advisory committee, the municipalities through which the designated river or segment flows, and municipalities within tributary drainage areas on matters pertaining to the management of the river or segment and tributary drainage areas **and disposal of state-owned lands.** Municipal officials, boards, and agencies shall inform such committees of actions which they are considering in managing and regulating activities within designated river corridors.

**Comment [TS20]:** Already occurs, just making it official.

(b) To consider and comment on any federal, state, or local governmental plans to approve, license, fund or construct facilities, **or any applications for permits, certificates, or licenses,** that would alter the resource values and characteristics for which the river or segment is designated.

**Comment [TS21]:** Consistent with 483:12-a

(c) To develop or assist in the development and adoption of local river corridor management plans under RSA 483:10. The local planning board, or, in the absence of a planning board, the local governing body, may adopt such plans pursuant to RSA 675:6 as an adjunct to the local master plan adopted under RSA 674:4. No such plan shall have any regulatory effect unless implemented through properly adopted ordinances. **The plan will serve as an element of a state comprehensive plan for river conservation and development pursuant to RSA 483:5.**

**Comment [TS22]:** Duplicative of 483:5, unnecessary.

(d) To report biennially to the advisory committee and the commissioner, and annually to municipalities on the status of compliance with federal and state laws and regulations, local ordinances, and plans relevant to the designated river or segment, its corridor, **and tributary drainage areas, and the activities of the local river management advisory committee including, but not limited to: committee volunteer hours, permit applications reviewed, corridor management plans and their implementation, and education and outreach efforts.**

**Comment [TS23]:** This information is already requested biennially from LACs, and is necessary for the reports to the legislature.

III-a. Local river management advisory committees may apply for and accept, from any source, gifts, grants, and other donations of money or services that directly assist the committee in meeting its duties, programs, and projects. The committees may, without further authorization, expend any funds so received to carry out their duties under this section.

III-b. **Local river management advisory committees may, with the approval and consensus of the local governing bodies, merge with other local river management advisory committees for a designated river or segment or re-establish individual committees from previously merged committees.**

**Comment [TS24]:** Allows 2 or more struggling LACs within the same larger watershed to join forces to more effectively accomplish mutual goals (ie. Saco & Swift, Cochecho & Isinglass).

IV. In the case of the Connecticut River, the commissioner shall appoint the New Hampshire Connecticut River Valley resource commission as the local river management advisory committee to work with the Vermont Connecticut River Watershed Advisory Commission as provided in RSA 227-E. A minimum of 5 subcommittees shall be established by the Connecticut River Valley resource commission along the river between Vermont and New Hampshire as provided in RSA 483:8-a, II. Vermont residents may be appointed in an advisory capacity to the local river management advisory committee, except where the Connecticut River is exclusively intrastate.

V. In order to establish the tax exempt status of local river management advisory committees

established under this section, such advisory committees are deemed to be governmental instrumentalities having a distinct legal existence separate from the state and shall not be considered as departments of state government. The exercise by a local river management advisory committee of any authority granted by this section shall be deemed to be the performance of public and essential governmental functions not otherwise fulfilled by state government.

**Source.** 1990, 233:6. 1991, 338:9. 1992, 261:2. 1995, 219:2. 1997, 7:1; 267:3. 2007, 285:5. 2009, 201:9, eff. July 15, 2009.

### Section 483:9

**483:9 Natural Rivers Protection.** – The following protection measures shall apply to a river or segment designated as a natural river:

I. No dam or other structure or improvement that impedes or significantly alters the free-flowing condition or natural character of the river or segment shall be permitted, certified, constructed, or operated in such river or segment.

II. No interbasin transfers of water from a designated natural river or segment shall be permitted.

III. No channel alteration activities shall be permitted. The commissioner may approve channel alterations as follows:

(a) Temporary channel alterations in conjunction with the repair or maintenance of a bridge, road, or riprap which is in place at the time a river or segment is designated; or

(b) Permanent alterations in conjunction with the repair or maintenance of a bridge, road, or riprap which is in place at the time a river or segment is designated which have only de minimis impact to or restore the channel's geomorphic characteristics.

IV. A protected instream flow [level] shall be established by the commissioner for each designated natural river or segment and any upstream impoundment or diversion facility which may affect the free-flowing condition or natural character of the designated river or segment pursuant to RSA 483:9-c.

V. Water quality shall be maintained at, or restored to the Class A level, or maintained at the Class B level. Each designated natural river or segment shall constitute an outstanding natural resource water pursuant to the standards adopted under RSA 485-A:8. The department shall review and consider adopted local river corridor management plans prior to issuing any permit under RSA 485-A:13 or RSA 485-A:17.

VI. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated natural river or segment and screened with a vegetative or other natural barrier to minimize visual impact, except:

(a) New solid waste landfills shall not be permitted within the corridor of a designated natural river or segment, or less than 100 feet from the landward extent of the 500 year floodplain, whichever distance is greater, and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;

(b) Expansion of existing solid waste landfills shall not occur within the 500 year

**Comment [TS25]:** Recommended by Wayne Ives.

floodplain of a designated natural river or segment and any expansion of such a landfill located within the corridor of a designated natural river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact;

(c) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes **and that follow established state or federal Best Management Practices for the protection of water quality.**

Comment [TS26]: Condition added by RMAC

(d) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated natural river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under permit at the time of designation; and

(e) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated natural river or segment.

VII. No new hazardous waste facilities as defined in RSA 147-A:2 which store hazardous waste for more than 90 days, shall be permitted within the corridor of a designated natural river or segment.

VIII. No motorized watercraft shall be permitted to operate on a designated natural river or segment, except for emergency purposes.

**Source.** 1989, 339:1. 1990, 233:10. 1991, 58:1; 338:2. 1996, 251:14, 15. 1998, 56:2. 2007, 308:1. 2009, 201:10. 2011, 32:3, eff. May 9, 2011.

### Section 483:9-a

**483:9-a Rural River Protection.** – The following protection measures shall apply to a river or segment designated as a rural river:

I. No new dams shall be permitted, certified, constructed, operated or maintained in such river or segment. The repair of a structural failure of a dam which is in place at the time a river or segment is designated shall not be considered to be a new dam if such dam is repaired or reconstructed at the same location and with the same impoundment level within 6 years of the date of failure.

II. Notwithstanding paragraph I, the department may approve permits and certificates for the construction, operation, or maintenance of new hydroelectric power facilities at existing dams provided that:

(a) The operational mode of any proposed facility shall be run-of-the-river, with project outflow equal to project inflow on an instantaneous basis and the project does not significantly alter the natural flow characteristics of the river; and

(b) The proposed facility does not provide for diversion of the river above or below the existing dam for a significant distance; and

(c) The height of the impoundment is constant and is not raised above the maximum historic level of impoundment at that site.

**(d) The proposed facility provides adequate fish passage as determined by the fish and game department.**

III. No interbasin transfers of water from a designated rural river or segment shall be permitted.

IV. No new channel alteration activities shall be permitted which interfere with or alter the natural flow characteristics of the river or segment or which adversely affect the resources for which the river or segment is designated. However, the commissioner may approve such channel alterations as may be necessary for the construction, repair, or maintenance of a project, including public water supply intake facilities, in the river or river corridor. The department shall encourage the use of native vegetation to stabilize streambanks of designated rural rivers.

V. A protected instream flow [level] shall be established by the commissioner for each designated rural river or segment and any upstream impoundment or diversion facility which may affect the natural flow characteristics or natural character of the designated river or segment pursuant to RSA 483:9-c.

VI. Water quality shall be restored to or maintained at least at the Class B level. Significant adverse impacts on water quality or other in-stream public uses shall not be permitted. The department shall review and consider adopted local river corridor management plans prior to issuing any permit under RSA 485-A:13, RSA 485-A:17, or RSA 482-A.

VII. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated rural river or segment and shall be screened with a vegetative or other natural barrier to minimize visual impact, except:

(a) New solid waste landfills shall not be permitted within the corridor of a designated rural river or segment or less than 100 feet from the landward extent of the 500 year floodplain, whichever distance is greater, and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;

(b) New solid waste landfills may be permitted within the city of Rochester within the corridor of the segment defined in RSA 483:15, XIV(c), and if located in the river corridor shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;

(c) Expansion of existing solid waste landfills shall not occur within the 500 year floodplain of a designated rural river or segment, and any expansion of such a landfill shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;

(d) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes **and that follow established state or federal Best Management Practices for the protection of water quality;**

**Comment [TS27]:** Addition reviewed by NH F&G Dept. and NH F&G Commission's RMAC representative.  
Alternative language proposed by Rep. Spang: *If fish passage is deemed necessary and appropriate by the fish and game department, the [fish and game] department shall determine the adequacy of the design and implementation.*

(e) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated rural river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under permit at the time of designation; and

(f) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated rural river or segment.

VIII. Any motorized watercraft operating within 150 feet of the shoreline of a designated rural river or segment shall travel at the slowest possible speed necessary to maintain steerage way, but at no time shall exceed 6 miles per hour.

**Source.** 1990, 233:11. 1991, 58:2; 338:3. 1996, 251:16, 17. 1998, 56:3. 2007, 308:2, eff. Sept. 11, 2007.

### **Section 483:9-aa**

**483:9-aa Rural-Community Rivers Protection.** – The following protection measures shall apply to rivers or segments designated as a rural-community river:

I. No new dams shall be permitted, certified, constructed, operated or maintained in such river or segment. The repair of a structural failure of a dam which is in place at the time a river or segment is designated shall not be considered to be a new dam if repaired or reconstructed at the same location and with the same impoundment level within 6 years of the date of failure.

II. Notwithstanding paragraph I, the department may approve permits and certificates for the construction, operation, or maintenance of new hydroelectric power facilities at existing dams provided that:

(a) The operational mode of any proposed facility shall be run-of-the-river, with project outflow equal to project inflow on an instantaneous basis and the project does not significantly alter the natural flow characteristics of the river; and

(b) The proposed facility does not provide for diversion of the river or segment above or below the existing dam for a significant distance; and

(c) The height of the impoundment is constant and is not raised above the maximum historic level of impoundment at that site.

**(d) The proposed facility provides adequate fish passage as determined by the fish and game department.**

III. No interbasin transfers of water from a designated rural-community river or segment shall be permitted.

IV. No new channel alteration activities shall be permitted which interfere with or alter the natural flow characteristics of the river or segment or which adversely affect the resources for which the river or segment is designated. However, the commissioner may approve such channel alterations as may be necessary for the construction, repair, or maintenance of a project, including public water supply intake facilities, in the river or river corridor. The department shall encourage the use of native vegetation to stabilize streambanks of designated rural-community rivers.

V. A protected instream flow [level] shall be established by the commissioner for each designated rural-community river or segment and any upstream impoundment or diversion

facility which may affect the natural flow characteristics of such river or segment pursuant to RSA 483:9-c.

VI. Water quality shall be restored or maintained at least at the Class B level. Significant adverse impacts on water quality or other instream public uses shall not be permitted. The department shall review and consider adopted local river corridor management plans prior to issuing any permit under RSA 485-A:13, RSA 485-A:17 or RSA 482-A.

VII. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated rural-community river or segment and screened with a vegetative or other natural barrier to minimize visual impact, except:

(a) New solid waste landfills shall not be permitted within the 500 year floodplain of a designated rural-community river or segment and any new solid waste landfill located within the corridor of a designated rural-community river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact;

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes *and that follow established state or federal Best Management Practices for the protection of water quality;*

(c) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated rural-community river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under permit at the time of designation; and

(d) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated rural-community river or segment.

VIII. Any motorized watercraft operating within 150 feet of the shoreline of a designated rural-community river or segment shall travel at the slowest possible speed necessary to maintain steerage way, but at no time shall exceed 6 miles per hour.

**Source.** 1991, 338:12. 1996, 251:18, 19. 1998, 56:4, eff. May 7, 1998.

### **Section 483:9-b**

**483:9-b Community Rivers Protection.** – The following protection measures shall apply to rivers or segments designated as a community river:

I. The department may approve permits for the construction of new dams for public water supply, flood control or hydroelectric energy production purposes if such construction is consistent with management and protection of the resources for which the river or segment is designated.

II. The department may approve permits and certificates for the construction, operation, or maintenance of new hydroelectric power facilities at existing or breached dams provided that:

(a) The operational mode of any proposed facility shall be run-of-the-river, with project outflow equal to project inflow on an instantaneous basis and the project does not significantly alter the natural flow characteristics of the river; and

(b) The proposed facility does not provide for diversion of the river or segment above or below the existing dam for a significant distance; and

(c) The height of the impoundment is constant and, for existing or breached dams, is not raised above the maximum historic level of impoundment at that site.

**(d) The proposed facility provides adequate fish passage as determined by the fish and game department.**

III. No interbasin transfers of water from a designated community river or segment shall be permitted.

IV. No new channel alteration activities shall be permitted which interfere with or alter the natural flow characteristics of the river or segment or which adversely affect the resources for which the river or segment is designated. However, the commissioner may approve such channel alterations as may be necessary for the construction, repair, or maintenance of a project, including public water supply intake facilities, in the river or river corridor. The department shall encourage the use of native vegetation to stabilize streambanks of designated community rivers.

V. A protected instream flow [level] shall be established by the commissioner for each designated community river or segment and any upstream impoundment or diversion facility which may affect the natural flow characteristics of such river or segment pursuant to RSA 483-A:9-c.

VI. Water quality shall be restored or maintained at least at the Class B level. Significant adverse impacts on water quality or other instream public uses shall not be permitted. The department shall review and consider adopted local river corridor management plans prior to issuing any permit under RSA 485-A:13, RSA 485-A:17 or RSA 482-A.

VII. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated community river or segment and screened with a vegetative or other natural barrier to minimize visual impact, except:

(a) New solid waste landfills shall not be permitted within the 500 year floodplain of a designated community river or segment and any new solid waste landfill located within the corridor of a designated community river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact;

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes **and that follow established state or federal Best Management Practices for the protection of water quality;**

(c) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated community river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under



permit at the time of designation; and

(d) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated community river or segment.

VIII. Any motorized watercraft operating within 150 feet of the shoreline of a designated community river or segment shall travel at the slowest possible speed necessary to maintain steerage way, but at no time shall exceed 6 miles per hour.

**Source.** 1990, 233:11. 1991, 58:3; 338:4, 13, 14. 1996, 251:20, 21. 1998, 56:5, eff. May 7, 1998.

### Section 483:9-c

#### **483:9-c Establishment of Protected Instream Flows. -**

I. The commissioner, in consultation with the advisory committee, shall adopt rules under RSA 541-A specifying the standards, criteria, and procedures by which a protected instream flow shall be established and enforced for each designated river or segment. Each protected instream flow shall be established and enforced to maintain water for instream public uses and to protect outstanding characteristics, including recreational, fisheries, wildlife, environmental, hydropower, cultural, historical, archaeological, scientific, ecological, aesthetic, community significance, agricultural, public water supply, and the resources for which the river or segment is designated, and shall respect riparian interests on each designated river or segment consistent with the purposes of this chapter. Instream public uses shall include the state's interests in surface waters, including, but not limited to, navigation; recreation; fishing; storage; conservation; maintenance and enhancement of aquatic and fish life; fish and wildlife habitat; wildlife; the protection of water quality and public health; pollution abatement; aesthetic beauty; and hydroelectric energy production.

II. One public hearing shall be held in at least one municipality along the designated river or segment to receive public comment on the establishment of a proposed protected instream flow.

III. The procedure adopted under this section shall include an assessment of the effect of a protected instream flow upon existing hydroelectric power generation, water supply, flood control, and other riparian users. ~~For any portion of a designated river or segment where a protected instream flow would affect the operation of an existing hydroelectric power facility within or upstream from the designated river or segment, the commissioner shall request the assistance of the public utilities commission in order to assess the effect of a protected instream flow upon such facility.~~

IV. The protected instream flows ~~levels~~ established under this section shall be maintained at all times, except when inflow is less than the protected instream flow level as a result of natural causes or when the commissioner determines that a public water supply emergency exists which affects public health and safety.

V. The maintenance of protected instream flows shall constitute a condition of any permit issued by the department for any project or activity within a designated river or segment and corridor.

VI. Any party who is aggrieved by a determination establishing such protected instream

**Comment [TS28]:** PUC is no longer responsible for this.

flows may petition the commissioner for a hearing to review such determination within 30 days of the date the determination is issued. The filing of such petition shall stay the implementation of the determination until a final decision has been rendered on the petition or an appeal taken pursuant to RSA 541.

Source. 1990, 233:11. 2009, 208:2. 2011, 32:4, eff. May 9, 2011.

## Section 483:10

### 483:10 River[s] Corridor Management Plans. -

I. ~~The rivers coordinator, with the cooperation and assistance of the office of energy and planning, shall develop detailed guidelines for river corridor management plans.~~ The rivers coordinator shall provide technical assistance to **local river management advisory committees**, regional planning commissions, and municipalities, ~~and local river management advisory committees~~ and shall encourage the development and implementation of **local** river corridor management plans pursuant to RSA 483:8-a III (c). **In developing these plans, the department shall cooperate with the department of resources and economic development, the department of fish and game, the office of energy and planning, the department of agriculture, markets, and food, the department of transportation, the department of safety and the division of historical resources.**

II. River corridor management plans developed pursuant to paragraph I shall include, but not be limited to, the following:

- (a) Permitted recreational uses and activities.
- (b) Permitted non-recreational uses and activities.
- (c) Existing land uses.
- (cc) **Aquatic connectivity.**
- (d) Protection of flood plains, **meander belts**, wetlands, wildlife and fish habitat, and other significant open space and natural areas.
- (e) Dams, bridges, and other water structures.
- (f) Access by foot and vehicles.
- (g) Setbacks and other location requirements.
- (h) Dredging, filling, mining, and earth moving.
- (i) Prohibited uses.

(j) **State-owned lands within the corridor and tributary drainage areas thereof. The department shall provide information and technical assistance to the local rivers management advisory committees regarding the state-owned lands. The plan shall include recommendations on the administration and management of state-owned lands within the corridor.**

(k) **Fluvial geomorphology assessments and risk reduction hazard mitigation. The department shall provide information and technical assistance to the local rivers management advisory committees regarding fluvial geomorphology assessments.**

III. River corridor management plans developed according to this section may include tributary drainage areas as determined by the local river management advisory committee.

IV. State agencies shall collaborate with and assist the rivers coordinator and the local river

Comment [TS29]: Already done.

Comment [TS30]: Rep. Spang had additional comments for this section.

Comment [TS31]: Specifying resources required to complete the corridor plans.

Comment [TS32]: Added as important features to consider.

Comment [TS33]: Added to corridor plans with removal of long-range plans below.

Comment [TS34]: DES Senior Leadership uncomfortable with "department shall" statements. Add recommendations for data sources to complete this section to guidance document.

Comment [TS35]: Added as important features to manage for, but hazard mitigation is the name of a state program. Move resources required to complete this section, incl. DES data, to guidance document rather than statute.

management advisory committee [in] with the [development and] implementation of river corridor management plans.

Source. 1989, 339:1. 2003, 319:9. 2004, 257:44. 2007, 285:6. 2009, 201:11, 12, eff. July 15, 2009.

### Section 483:10-a

**483:10-a Long Range River Management Plans.** — The department shall prepare and adopt a long range comprehensive plan for each designated river or segment which shall address the management and protection of instream values and the management of state-owned lands within the corridor and tributary drainage areas thereof. Such state-owned land within the designated river corridor and tributary drainage areas shall be administered and managed in accordance with the plan, and state management of fisheries, streams, waters, wildlife, and boating shall be consistent with the plan. In developing this plan, the department shall cooperate with the department of resources and economic development, the department of fish and game, the office of energy and planning, the department of agriculture, markets, and food, the department of transportation, and the local rivers management advisory committee.]

**Comment [TS36]:** No long-range plans have ever been completed. Elements of these plans have been re-located, with LAC concurrence, to the corridor mgmt. plans above.

Source. 1990, 233:12. 1995, 130:4. 2003, 319:9. 2004, 257:44. 2007, 285:7, eff. Sept. 1, 2007.

### Section 483:10-b

**483:10-b Withholding of Section 401 Certification.** — The general court finds that the development of any dam or channel alteration activities within a natural river or segment or the development of any new dam within a rural, *rural-community*, or community river or segment, except as provided in RSA 483:9-a, II, RSA 483:9-aa, II, and RSA 483:9-b, II, will alter the physical and chemical characteristics of that river and will constitute violation of the water quality standards established under RSA 485-A:8. The commissioner shall deny certification of any federally licensed or permitted activity on such designated rivers or segments under section 401 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.

**Comment [TS37]:** Accidentally left out previously.

Source. 1990, 233:12, eff. June 26, 1990.

### Section 483:11

**483:11 Rulemaking.** — The commissioner, with the advice of the advisory committee, shall adopt rules, pursuant to RSA 541-A, relative to the following *but not limited to*:

I. Content and submission of nominations, including requirements and criteria for river segments whose salinity, flow, or level is influenced by tides at its tidal mouth, under RSA 483:6, I.

I-a. Determination of the downstream extent for river segments whose salinity, flow, or level is influenced by tides at their tidal mouths.

II. Criteria for acceptance of nominations by the commissioner, including criteria listed in

RSA 483:6, IV(a).

III. Preparation for legislative designation of nominated rivers or segments of such rivers under RSA 483:7.

IV. Development of standards, criteria, and procedures for establishment and enforcement of protected instream flow levels for designated rivers and segments under RSA 483:9-c.

**Source.** 1989, 339:1. 1990, 233:13. 1991, 338:15. 2009, 201:17, eff. July 15, 2009.

### Section 483:12

**483:12 Consistency of State Action.** – Upon enactment of this chapter, all state agency actions affecting rivers or segments of such rivers which may be designated for protection under this chapter shall conform to the provisions of this chapter.

**Source.** 1989, 339:1, eff. Jan. 1, 1990.

### Section 483:12-a

#### **483:12-a State Action; Notification of Rivers Coordinator; Petition for Review.** –

I. Any state agency considering any action affecting any river or segment designated under this chapter shall notify the rivers coordinator **and the local river management advisory committee** prior to taking any such action. Such agency shall forward to the rivers coordinator **and the local river management advisory committee** for review and comment copies of all notices of public hearings, or, where a public hearing is not required, a copy of the application for issuance of a permit, certificate, or license within the designated river or corridor, **including, but not limited to [under] RSA 485-C Groundwater Protection Act; RSA 485-A Water Pollution and Waste Disposal Act; RSA 483-B Shoreland Water Quality Protection Act; RSA 12-E Mining and Reclamation Act; RSA 270:12 Operating Restrictions for Watercraft; RSA 482 Dams, Mills and Flowage Act; RSA 482-A Fill and Dredge in Wetlands Act; RSA 149-M Solid Waste Management Act; RSA 430 Insects Pests and Plant Diseases Act; or RSA 147-A Hazardous Waste Management Act.** If an agency is notified by the rivers coordinator that a proposed activity would violate a protection measure under RSA 483:9, 483:9-a, 483:9-aa, or 483:9-b, such agency shall deny the application.

I-a. **State agencies shall develop, in conjunction with the [The] rivers coordinator [shall develop, in conjunction with affected state agencies] and the** local river management advisory committees, the procedure by which the state shall notify the appropriate local river management advisory committee when state action is being considered which affects a designated river.

II. If an application is denied solely because the proposed activity would violate a protection measure under RSA 483:9, 483:9-a, 483:9-aa, or 483:9-b, the applicant may petition the commissioner for a review. Within 30 days of receiving such a petition, the commissioner, in consultation with the advisory committee and the appropriate local rivers management advisory committee, shall review the application. If the commissioner determines that the proposed activity is consistent with the character of the designated river or segment or that the

**Comment [TS38]:** Reduced program staff and tight permitting deadlines require direct communication with LACs.

**Comment [TS39]:** Adding names of RSAs for easier reference.

**Comment [TS40]:** Rep. Spang recommends keeping the original language, as the river coordinator will need to take the lead on the task.

proposed activity would provide a public benefit sufficient to outweigh the public benefit of a protection measure under this chapter, the commissioner shall submit to the speaker of the house and the president of the senate a recommendation that the proposed activity be allowed to proceed. Such recommendation shall require review and approval by the general court and shall be filed as a bill in the next legislative session following the petition.

**Source.** 1990, 233:14. 1995, 219:3. 2007, 285:8. 2009, 201:13, eff. July 15, 2009.

### **Section 483:12-b**

#### **483:12-b Subject to Other Laws; Existing Hydroelectric Facilities. -**

I. Any activities permitted under this chapter shall be subject to all applicable state and federal laws and regulations.

II. Nothing in this chapter shall prohibit the continued operation, repair and maintenance of hydroelectric storage and generation facilities existing on the effective date of this paragraph.

**Source.** 1990, 233:24. 1992, 261:3, eff. July 14, 1992.

### **Section 483:13**

#### **483:13 Acceptance and Expenditure of Funds. -**

I. The commissioner may apply for and accept, from any source, gifts; donations of money; grants; federal, local, private, and other matching funds and incentives; and interests in land for the purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund established under paragraph II.

II. There is hereby established in the office of the state treasurer a fund to be known as the rivers management and protection fund. The fund shall be nonlapsing and continually appropriated to the commissioner for the purposes of this chapter, RSA 487:38 through RSA 487:42, and RSA 483-A.

III. The commissioner may expend any funds deposited in the rivers management and protection fund for the purposes of this chapter, RSA 487:38 through RSA 487:42, and RSA 483-A, and such funds are hereby continually appropriated.

IV. The commissioner shall submit a biennial report by October 1 to the speaker of the house of representatives, the senate president, the chairperson of the house resources, recreation and development committee, the chairperson of the senate energy, environment, and economic development committee, and the state library summarizing all receipts and disbursements of the rivers management and protection fund, including a description of all projects or activities undertaken. Each report shall be in such detail with sufficient information to be fully understood by the general court and the public. After submission to the general court, the report shall be available to the public.

**Source.** 1989, 339:1. 1995, 219:4. 2009, 201:14. 2010, 269:1, eff. July 6, 2010.

### **Section 483:14**

#### 483:14 Disposition of State Property. -

I. No state-owned property adjacent to or providing access to a river shall be disposed of by the state except upon the review and recommendation of the advisory committee.

~~II. No state-owned property included in a long-range river management plan shall be disposed of by the state except upon the review and recommendation of the advisory committee.~~

Comment [TS41]: Long-range plans removed.

Source. 1990, 118:4. 2009, 201:15, eff. July 15, 2009.

#### Section 483:15

**483:15 Rivers Designated for Protection.** - The following rivers and river segments are designated as protected:

I. Lamprey River and ~~its~~ *the* watershed tributaries ~~[including:]~~ North Branch, Pawtuckaway, North, Little, and Piscassic Rivers.

Comment [TS42]: Clarifying that only the named tributaries are designated.

(a)(1) Lamprey River:

(A) As a rural river from immediately downstream of Meadow Lake Dam in Northwood to the confluence with the North Branch River in Raymond.

(B) As a rural-community river from the confluence with the North Branch River in Raymond to 0.9 miles downstream of the Langford Road crossing in Raymond.

(C) As a community river from 0.9 miles downstream of the Langford Road crossing in Raymond to 0.3 miles downstream of the Epping Street crossing in Raymond.

(D) As a rural-community river from 0.3 miles downstream of the Epping Street crossing in Raymond to the confluence with the Pawtuckaway River in Epping.

(E) As a community river from the confluence with the Pawtuckaway River in Epping to the downstream side of the New Hampshire Route 125 bridge in Epping.

(F) As a rural river from the downstream side of the New Hampshire Route 125 bridge in Epping to the Epping-Lee town line.

(G) As a rural river from the Epping-Lee town line to the Durham-Newmarket town line. Notwithstanding any other provisions of this chapter, the department of environmental services shall not approve the use of flashboards under RSA 482:29 to increase the height of any existing dam within this segment of the Lamprey River.

(H) As a community river from the Durham-Newmarket town line to 1.8 miles downstream of the MacCallen Dam in Newmarket.

(2) North Branch River--as a natural river from immediately downstream of the Beaver Pond Dam in Deerfield to the confluence with the Lamprey River in Raymond.

(3) Pawtuckaway River--as a rural river from immediately downstream of the Pawtuckaway Lake Dam in Nottingham to the confluence with the Lamprey River in Epping.

(4) North River--as a rural river from immediately downstream of the North River Pond Dam in Nottingham to the confluence with the Lamprey River in Epping.

(5) Little River--as a rural river from immediately downstream of the Mendum's Pond Dam in Nottingham to the confluence with the Lamprey River in Lee.

(6) Piscassic River:

(A) As a natural river from the headwaters 0.5 miles upstream of the Fremont-

Brentwood town line to the upstream side of the Piscassic Ice Pond Dam in Newfields.

(B) As a rural-community river from the upstream side of the Piscassic Ice Pond Dam in Newfields to the downstream side of the Grant Road crossing in Newmarket.

(C) As a community river from the downstream side of the Grant Road crossing in Newmarket to the confluence with the Lamprey River in Newmarket.

(b) All 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> order portions of the Lamprey River and its tributary rivers shall be exempt from the provisions of the [comprehensive] shoreland *water quality* protection act, RSA 483-B.

Comment [TS43]: Name change

II. Merrimack River--main stem from the Bedford-Merrimack town line to the New Hampshire-Massachusetts state line as a "community river." Nothing in this chapter shall be construed to limit complete capacity utilization, not to exceed 30 million gallons per day, or any construction or repairs required to achieve such utilization of the existing intake facilities of Pennichuck Water Works situated on the western bank of the Merrimack River in the vicinity of Chase Brook, so-called. This paragraph shall not affect any private right in the Merrimack River and shall not relieve Pennichuck Water Works, or its successors and assigns, from compliance with other laws or rules under the state's police power.

III. Merrimack River--main stem from the confluence of the Winnepesaukee and Pemigewasset Rivers in the city of Franklin to Garvins Falls in the town of Bow as a "rural river."

IV. Saco River--main stem from the base of Saco Lake dam to the southern boundary of Crawford Notch State Park as a "natural river" and from the southern boundary of Crawford Notch State Park to the New Hampshire-Maine state line as a "rural river." Nothing in this chapter shall prohibit the normal repair or maintenance of the Willey House dam in Crawford Notch State Park.

V. Swift River--main stem from its headwaters to the Albany-Conway town line as a "natural river" and from the Albany-Conway town line to its confluence with the Saco River in Conway as a "rural river."

VI. Pemigewasset River:

(a) As a natural river from the outlet of Profile Lake in Franconia to the southern boundary of Franconia Notch State Park.

(b) As a rural river from the Holderness-Ashland town line to the Franklin Falls flood control dam.

(c) As a rural-community river from the northernmost Thornton town line to the I-93 bridge in Plymouth.

(d) As a community river:

(1) From the I-93 bridge in Plymouth to the Holderness-Ashland town line.

(2) From the Franklin Falls flood control dam to its confluence with the Merrimack

River.

VII. (a) Contoocook River--main stem:

(1) As a "rural river":

(A) From the Old Sharon Road bridge in Jaffrey to Noone Falls dam in Peterborough.

(B) From the North Peterborough dam to the monument on the Peterborough-Hancock town line.

(C) From the North Bennington Road bridge in Antrim and Bennington to the

confluence of the north branch of the Contoocook River in Hillsborough.

(D) From the Hosiery Mill dam in Hillsborough to the twin iron bridges in West Henniker.

(E) From the Henniker-Hopkinton town line to the Riverhill bridge in Penacook.

(2) As a "community river":

(A) From the outlet of Poole Pond in Rindge to Old Sharon Road bridge in Jaffrey.

(B) From the Noone Falls dam in Peterborough to North Peterborough dam.

(C) From the monument on the Peterborough-Hancock town line to the North Bennington Road bridge in Antrim and Bennington.

(D) From the confluence of the north branch of the Contoocook River in Hillsborough to the Hosiery Mill dam in Hillsborough.

(E) From the twin iron bridges in West Henniker to the Henniker-Hopkinton town line.

(F) From the Riverhill bridge in Penacook to the confluence with the Merrimack River.

(b) Contoocook River--north branch:

(1) As a "rural river," from the outlet of Rye Pond in Stoddard to the outlet of Franklin Pierce Lake.

(2) As a "community river," from the outlet of Franklin Pierce Lake to the confluence of the Contoocook River.

VIII. Connecticut River:

(a) As a rural river from the outlet of the Fourth Connecticut Lake to a point .3 miles above the Second Connecticut Lake Dam.

(b) As a community river from the point above the Second Connecticut Lake Dam to a point .3 miles below the Second Connecticut Lake Dam.

(c) As a rural river from the point below the Second Connecticut Lake Dam to a point .3 miles above the First Connecticut Lake Dam.

(d) As a community river from the point above the First Connecticut Lake Dam to a point .3 miles below the First Connecticut Lake Dam.

(e) As a rural river from the point below the First Connecticut Lake Dam to a point .3 miles above Murphy Dam.

(f) As a community river from the point above the Murphy Dam to a point 2 miles below the Murphy Dam.

(g) As a rural river from the point 2 miles below the Murphy Dam to Bishop Brook in Stewartstown.

(h) As a community river from Bishop Brook to Leach Creek in Canaan, Vermont.

(i) As a rural river from Leach Creek to the confluence with the Mohawk River.

(j) As a rural community river from the confluence with the Mohawk River to the Columbia-Colebrook town line.

(k) As a rural river from the Columbia-Colebrook town line to Wheeler Stream in Brunswick, Vermont.

(l) As a natural river from Wheeler Stream to the Maidstone-Stratford Bridge.

(m) As a rural river from the Maidstone-Stratford Bridge to a point one mile above the breached Wyoming Valley Dam in Northumberland.

(n) As a community river from one mile above the breached Wyoming Valley Dam site to



a point one mile below the Wyoming Valley Dam Site.

(o) As a rural river from one mile below the breached Wyoming Valley Dam site to a point .3 miles above the Simpson Paper Company Dam.

(p) As a community river from the point above the Simpson Paper Company Dam to .3 miles below the Simpson Paper Company.

(q) As a rural river from the point below the Simpson Paper Company Dam to .4 miles above the Moore Dam.

(r) As a community river from the point above the Moore Dam to a point .6 miles below the Moore Dam.

(s) As a rural river from the point below Moore Dam to a point .3 miles above the Comerford Dam.

(t) As a community river from the point above the Comerford Dam to a point .2 miles below McIndoes Falls Dam.

(u) As a rural river from the point below the McIndoes Falls Dam to a point .3 miles above the Ryegate Dam.

(v) As a community river from the point above the Ryegate Dam to a point .2 miles below the Ryegate Dam.

(w) As a rural river from the point below the Ryegate Dam to the Ammonoosuc River in Bath.

(x) As a community river from the Ammonoosuc River to the point where routes 135 and 10 meet in Haverhill.

(y) As a rural river from the intersection of routes 135 and 10 to Storrs Pond Brook in Hanover.

(z) As a rural-community river from Storrs Pond Brook to Dothan Brook outlet in Hartford, Vermont.

(aa) As a community river from the Dothan Brook to .3 miles below the Wilder Dam.

(bb) As a rural-community river from the point below the Wilder Dam to the Lebanon-Plainfield town line.

(cc) As a rural river from the Lebanon-Plainfield town line to the Blow-Me-Down Brook in Cornish.

(dd) As a rural-community river from the Blow-Me-Down Brook to the northern end of Chase Island in Cornish.

(ee) As a rural river from the north end of Chase Island to the southern side of the Williams River in Bellows Falls, Vermont.

(ff) As a community river from the southern side of the Williams River to the Saxtons River in Westminster, Vermont.

(gg) As a rural-community river from the Saxtons River to the bridge between Westminster Station and Walpole.

(hh) As a rural river from the bridge at Westminster Station to the Brattleboro-Dummerston, Vermont town line.

(ii) As a rural-community river from the Brattleboro-Dummerston, Vermont town line to Sprague Brook.

(jj) As a community river from Sprague Brook to a point .3 miles below the Vernon Dam.

(kk) As a rural river from the point below the Vernon Dam to the Massachusetts border.

IX. Ashuelot River:

- (a) As a natural river from the dam at Butterfield Pond to and including the falls above Ashuelot Pond.
- (b) As a rural river from the falls above Ashuelot Pond to Symondsville Road in Marlow.
- (c) As a community river from Symondsville Road in Marlow to the Audio Accessories dam.
- (d) As a rural river from below the Audio Accessories dam in Marlow up to the breached Blackstock dam located above the town of Gilsum.
- (e) As a community river from the breached Blackstock dam above the town of Gilsum to the stone arch bridge in Gilsum.
- (f) As a rural river from the stone arch bridge in Gilsum to the Court Street bridge in Keene.
- (g) As a community river from the Court Street bridge in Keene to the Branch River in Keene.
- (h) As a rural river from the Branch River in Keene to the unnamed brook entering on the west bank near the intersection of Winchester Street and route 10 in West Swanzey.
- (i) As a community river from the unnamed brook on the west bank near the intersection of Winchester Street and route 10 in West Swanzey to the Denman Thompson Bridge.
- (j) As a rural river from the Denman Thompson Bridge in West Swanzey to and including the oxbow on the west bank before the A.C. Lawrence building in Winchester.
- (k) As a community river from the oxbow on the west bank before the A.C. Lawrence building in Winchester to the route 119 bridge.
- (l) As a rural river from the route 119 bridge in Winchester to the Winchester dam owned by G.E. Robertson and Company in Hinsdale.
- (m) As a community river from the Winchester dam owned by G.E. Robertson and Company in Hinsdale to the route 63 bridge.
- (n) As a rural river from the route 63 bridge in Hinsdale to the mouth of the Ashuelot River at the Connecticut River.

X. (a) Piscataquog River--north branch:

- (1) As a natural river from the outlet of Deering Lake Dam in Deering, 6.25 miles to the Abijah bridge in Weare.
- (2) As a rural river:
  - (A) From the outlet of Lake Horace Dam in Weare, 8 miles to the Everett Dam flowage in Weare.
  - (B) From the outlet of Everett Dam in Weare, 8 miles to the river's convergence point with the south branch.
- (b) Piscataquog River--middle branch. As a natural river from the natural outlet of Scobie Pond in Francestown to the inlet of the upper cranberry bog at the New Boston town line, approximately 11.5 miles to its mouth in New Boston.
- (c) Piscataquog River--south branch:
  - (1) As a natural river from the outlet of Pleasant Pond in Francestown, 11.5 miles to New Hampshire Route 13 in New Boston.
  - (2) As a rural river from New Hampshire Route 13 in New Boston, 7 miles to the confluence with the north branch.

(3) As a rural-community river from the confluence with the north branch, 1.7 miles to New Hampshire Route 114 in Goffstown.

(4) As a community river from New Hampshire Route 114 in Goffstown, 1 mile to the Gregg Dam in Goffstown.

(5) As a rural-community river from the Gregg Dam in Goffstown, 6.9 miles to the river's mouth at Bass Island in Manchester.

XI. Exeter/Squamscott River.

(a) As a "rural river" from its headwaters at the route 102 bridge in Chester to its confluence with Great Brook in Exeter;

(b) As a community river from the confluence with Great Brook in Exeter, past the Great Dam and the falls to the head of tide in Exeter;

(c) As a rural river from past the Great Dam and the falls to the head of tide in Exeter, and then the Squamscott River to the boundary of the Great Bay as defined by the upstream side of the railroad trestle in Stratham and Newfields.

XII. Cold River:

(a) As a rural river from the outlet of Crescent Lake Dam in Acworth, 20.3 miles to the most downstream crossing of the Langdon-Walpole town line.

(b) As a community river from the most downstream crossing of the Langdon-Walpole town line, 2.1 miles to its confluence with the Connecticut River in Walpole.

XIII. Souhegan River:

(a) As a rural-community river from the confluence of its south and west branches in New Ipswich to a point 0.5 miles above the Otis Dam in Greenville.

(b) As a community river from the point 0.5 miles above the Otis Dam in Greenville to a point 0.5 miles below the Otis Dam.

(c) As a rural river from the point 0.5 miles below the Otis Dam to the Label Arts Dam located approximately 0.3 miles above the confluence with Stony Brook in Wilton.

(d) As a community river from the Label Arts Dam to the Wilton Road bridge near the Pine Valley Mill in west Milford.

(e) As a rural-community river from the Wilton Road bridge to a point 0.5 miles above the route 13 bridge in Milford.

(f) As a community river from the point 0.5 miles above the route 13 bridge to a point 0.5 miles below the route 13 bridge.

(g) As a rural river from the point 0.5 miles below the route 13 bridge to the Everett Turnpike bridge in Merrimack.

(h) As a community river from the Everett Turnpike Bridge to the confluence with the Merrimack River in Merrimack.

XIV. Isinglass River:

(a) As a rural river from the outflow of Bow Lake Dam in Strafford, 0.54 miles to immediately downstream of the route 202A bridge.

(b) As a natural river from immediately downstream of the Route 202A bridge in Strafford, 5.75 miles to immediately upstream of the route 126 bridge in Barrington.

(c) As a rural river from immediately upstream of the route 126 bridge in Barrington, 11.64 miles to its confluence with the Cocheco River in Rochester.

XV. Ammonoosuc River:

- (a) As a natural river from the Lakes of the Clouds in Sargents Purchase to a point 1.33 miles upstream of Upper Falls in Crawford's Purchase.
- (b) As a rural community river from a point 1.33 miles upstream of Upper Falls in Crawford's Purchase to the White Mountain National Forest boundary near Lower Falls in the town of Carroll.
- (c) As a rural river from the White Mountain National Forest boundary near Lower Falls in Carroll to the Bethlehem-Littleton town line.
- (d) As a community river from the Bethlehem-Littleton town line to the Littleton-Lisbon town line.
- (e) As a rural-community river from the Littleton-Lisbon town line to the confluence with Pearl Lake Brook in Lisbon.
- (f) As a community river from the confluence with the Pearl Lake Brook in Lisbon to the Lisbon-Landaff-Bath town line.
- (g) As a rural-community river from the Lisbon-Landaff-Bath town line to a point 0.9 miles above the covered bridge in Bath.
- (h) As a community river from the point 0.9 above the covered bridge in Bath to the confluence with Simonds Brook in Bath.
- (i) As a rural-community river from the confluence with Simonds Brook in Bath to the confluence with Burton Brook in Bath.
- (j) As a community river from the confluence with Burton Brook in Bath to the confluence with the Connecticut River in Haverhill.

XVI. Cocheco River:

- (a) As a natural river from the Cocheco River headwaters south of March's Pond in New Durham to Spring Street crossing in Farmington.
- (b) As a community river from Spring Street crossing in Farmington to 0.7 miles south of the Cocheco Road Bridge north of Route 11 in Farmington.
- (c) As a rural-community river from 0.7 miles south of the Cocheco Road Bridge north of Route 11 in Farmington to Little Falls Bridge crossing in Rochester.
- (d) As a community river from Little Falls Bridge crossing in Rochester to England Road in Rochester.
- (e) As a rural-community river from England Road in Rochester to Whittier Street crossing in Dover.
- (f) As a community river from Whittier Street crossing in Dover to head of tide at Central Ave dam in Dover.

XVII. Mascoma River:

- (a) As a rural river from the downstream side of the confluence of the Mascoma River with the Canaan Street Lake tributary in Canaan to the upstream side of the railroad bridge east of the Baltic Mills Dam in Enfield.
- (b) As a community river from the upstream side of the railroad bridge east of the Baltic Mills Dam in Enfield to the downstream side of the railroad bridge south of Main Street in Enfield.
- (c) As a rural-community river from the downstream side of the railroad bridge south of Main Street in Enfield, including Mascoma Lake, to the upstream side of the Water Treatment Intake Dam in Lebanon.

(d) As a community river from the upstream side of the Water Treatment Intake Dam in Lebanon to the upstream side of the confluence of the Mascoma River with the Connecticut River in Lebanon.

XVIII. Oyster River:

(a)(1) As a rural-community river immediately downstream of the Hall Road Bridge in Barrington to the upstream side of Old Mill Road in Lee.

(2) As a rural river from the upstream side of Old Mill Road in Lee to the upstream side of Route 155 crossing in Lee.

(3) As a rural-community river from the upstream side of Route 155 crossing in Lee to the upstream side of the Oyster River Dam in Durham.

(4) As a community river from the upstream side of the Oyster River Dam in Durham to the Mill Pond Dam in Durham.

~~[(b) All 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> order portions of the Oyster River shall be exempt from the comprehensive shoreland protection act under RSA 483-B.]~~

**Comment [TS44]:** Do we need to confirm with Oyster LAC again?

**Source.** 1990, 233:15. 1991, 338:1. 1992, 261:1, 6, 7. 1993, 47:1; 132:1. 1995, 219:5. 1996, 228:108. 1999, 64:1. 2000, 27:1. 2002, 75:1. 2007, 66:1. 2009, 45:1; 208:1. 2010, 169:1, 2. 2011, 50:1, eff. May 9, 2011; 113:1, eff. May 31, 2011; 118:1, eff. June 2, 2011; 135:1, eff. June 7, 2011.