§480-W. Emergency actions to protect threatened property

1. Protective materials.

[PL 2005, c. 548, §2 (RP).]

2. Strengthening of structure.

[PL 2005, c. 548, §2 (RP).]

3. Emergency action exemption. Notwithstanding section 480-C, if the local code enforcement officer, a state-licensed professional engineer or a state-licensed geologist determines that the integrity of a seawall, bulkhead, retaining wall or similar structure in a coastal sand dune system is destroyed or threatened, the owner of property protected by the seawall, bulkhead, retaining wall or similar structure may perform or cause to be performed the following activities without obtaining a permit under this article:

A. Place riprap, sandbags or other heavy nonhazardous material to shore up the threatened structure and leave the material in place until a project designed to repair or replace the structure is permitted by the department. After such emergency action is taken and within 5 working days after the imminent threat, the property owner must provide written notice to the department of the date the emergency action was taken and a description of the emergency action taken. Within 6 months following placement of any material pursuant to this paragraph, the property owner must submit to the department an application to repair or replace the structure. The material placed pursuant to this paragraph must be removed within 18 months from the date a permit is issued by the department; or [PL 2005, c. 548, §2 (NEW).]

B. Make permanent repairs, to the extent necessary to alleviate the threat, to strengthen the seawall, bulkhead, retaining wall or other structure, to widen the footings or to secure the structure to the sand with tie-back anchors. A state-licensed geologist, state-licensed professional engineer or other qualified professional must make the determination that the actions taken by the property owner in accordance with this section are only those actions necessary to alleviate the imminent threat and do not include increasing the height or length of the structure. [PL 2019, c. 285, §16 (AMD).]

If a local code enforcement officer, state-licensed professional engineer or state-licensed geologist fails to determine within 6 hours of initial contact by the property owner whether the integrity of a structure is destroyed or threatened, the property owner may proceed as if the local code enforcement officer, state-licensed professional engineer or state-licensed geologist had determined that the integrity of the structure was destroyed or threatened.
[PL 2019, c. 285, §16 (AMD).]

4. Replacement after emergency action under permit by rule. Notwithstanding any other provision of this chapter, the department shall approve a permit by rule to repair or replace a seawall, bulkhead, retaining wall or similar structure that has been destroyed or threatened with a structure that is identical in all dimensions and location as long as a property owner files a completed permit-by-rule notification for the repair or replacement of the structure and the following standards are met:

A. During project construction, disturbance of dune vegetation must be avoided and native vegetation must be retained on the lot to the maximum extent possible. Any areas of dune vegetation that are disturbed must be restored as quickly as possible. Dune vegetation includes, but is not limited to, American beach grass, rugosa rose, bayberry, beach pea, beach heather and pitch pine. [PL 2005, c. 548, §2 (NEW).]

B. Sand may not be moved seaward of the frontal dune between April 1st and September 1st unless the owner has obtained written approval from the Department of Inland Fisheries and Wildlife. [PL 2005, c. 548, §2 (NEW).]

C. The replacement of a seawall may not increase the height, length or thickness of the seawall beyond that which legally existed within the 24 months prior to the submission of the permit-by-rule notification. The replaced seawall may not be significantly different in construction from the one that previously existed. [PL 2005, c. 548, §2 (NEW).]

[PL 2005, c. 548, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 230, §1 (NEW). PL 2005, c. 548, §2 (AMD). PL 2019, c. 285, §16 (AMD).

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