

CHAPTER 124  
HB 1258 – FINAL VERSION

25Mar2014... 0704h  
05/08/14 1637s

2014 SESSION

14-2293  
06/10

HOUSE BILL            **1258**

AN ACT                relative to fill and dredge permitting applications.

SPONSORS:            Rep. Chandley, Hills 22

COMMITTEE:          Resources, Recreation and Development

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ANALYSIS

This bill modifies the process of submitting dredge and fill applications and providing notification.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                                Matter removed from current law appears [~~in brackets and struck through.~~]  
                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT                   relative to fill and dredge permitting applications.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           124:1 Excavating and Dredging Permit; Certain Exemptions. RSA 482-A:3, I is repealed and  
2 reenacted to read as follows:

3           I.(a) No person shall excavate, remove, fill, dredge, or construct any structures in or on any  
4 bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the  
5 department. Unless otherwise specified in rules adopted by the commissioner pursuant to RSA 482-  
6 A:11, any person seeking to obtain a permit shall submit to the department:

7                   (1) A complete application form that has been signed by the town or city clerk of the  
8 municipality in which the property is located or, if the property is located in more than one  
9 municipality, by the city or town clerk of each such municipality, certifying that the municipality has  
10 received 4 copies of the form and attachments as provided in subparagraph (a)(2). The town or city  
11 clerk shall send a copy of the form and attachments to the local governing body, the municipal  
12 planning board, if any, and the municipal conservation commission, if any, and shall retain one copy  
13 to be made reasonably accessible to the public. Applications and fees for projects by agencies of the  
14 state may be filed directly with the department, with 4 copies of the application, plan, and map filed  
15 at the same time with the town or city clerk.

16                   (2) Such other information as required by rules adopted by the commissioner  
17 pursuant to RSA 482-A:11, which may include maps and plans.

18                   (3) A nonrefundable application fee as specified in subparagraphs (b) or (c), as  
19 applicable.

20                   (b) The application fee for shoreline structure projects shall be \$200 plus an amount  
21 based on the area of dredge, fill, or dock surface area proposed, or a combination thereof, which shall  
22 be \$2 per square foot for permanent dock surface area; \$1 per square foot for seasonal dock surface  
23 area; and \$.20 per square foot for dredge or fill surface area or both. For projects involving only the  
24 repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall  
25 be \$200.

26                   (c) The application fee shall be \$200 for minimum impact dredge and fill projects under  
27 this chapter. The application fee for all projects under this chapter which are not covered by  
28 subparagraph (b) or (c) or paragraphs IV-a, V, X through XII, XV, XVI, or XVII through XIX shall be

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1     \$.20 per square foot of proposed impact, with a minimum fee of \$200 for all such projects that impact  
2     fewer than 1,000 square feet.

3             (d) At the time the applicant files the application with the department, the applicant  
4     shall provide written notice of the proposed project to:

5                     (1) All abutters, as defined in the rules of the department, unless exempted in such  
6     rules, which shall be provided by certified mail or other delivery method that provides proof of  
7     receipt. The applicant shall retain such receipts and provide copies to the department upon request.  
8     The department shall have no obligation to verify the identity of abutters or their receipt of notice.  
9     Any abutter who has actual notice of the filing of an application shall have no cause to challenge the  
10    application based on failure to receive written notice. Nothing in this subparagraph shall prevent  
11    the department from taking appropriate action in the event an applicant fails to provide the required  
12    notice or provides false information.

13                    (2) The local river management advisory committee if the project is within a river  
14    corridor as defined in RSA 483:4, XVIII, or a river segment designated in RSA 483:15. Such notice  
15    shall be sent by certified mail or other delivery method that provides proof of receipt. The applicant  
16    shall retain such receipts and provide copies to the department upon request. The local river  
17    management advisory committee shall, under RSA 483:8-a, III(a)-(b), advise the commissioner and  
18    consider and comment on the permit application.

19                    (e) Beginning October 1, 2007, the department shall submit an annual report to the  
20    house and senate finance committees, the house resources, recreation and development committee,  
21    and the senate energy and natural resources committee relative to administration of the wetlands  
22    fees permit process established by this section.

23             124:2 New Paragraph; Fill and Dredge in Wetlands; Excavating and Dredging Permit; Certain  
24    Exceptions. Amend RSA 482-A:3 by inserting after paragraph XIV-a the following new paragraph:

25                    XIV-b. A permit issued under this chapter that is associated with the excavation or mining  
26    of construction aggregate materials and quarry stone from the earth shall not expire for the life of  
27    the project identified in the permit application, provided that the permit holder submits revised  
28    project plans and a written update of the project's status every 5 years from the date of the permit  
29    issuance using a form obtained from the department as specified in department rules. Permitted  
30    impacts to aquatic resources shall be postponed until such impacts become necessary for the  
31    operation of the excavation or mining area. If there has not been excavation or mining of  
32    construction aggregate materials and quarry stone during any 5 year period, the project shall be  
33    deemed abandoned and the permit deemed expired. When or if a new proposal to develop the  
34    property for a different use is proposed, a new application shall be submitted.

35             124:3 Fill and Dredge in Wetlands; Excavating and Dredging Permit; Certain Exceptions.  
36    Amend RSA 482-A:3, XVII to read as follows:

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1           XVII. State and municipal public works employees who have fulfilled the requirements of a  
2 certification program developed by the department may maintain, repair, replace, or modify culverts  
3 up to a maximum diameter of 48 inches, or the hydraulic equivalent, as long as the structure can  
4 pass flows from the contributing watershed without causing damage to upstream or downstream  
5 properties, and in accordance with best management practices to protect water quality, without prior  
6 notification to the department. ***Federal employees who otherwise meet the requirements of the***  
7 ***program developed by the department may maintain, repair, replace, or modify culverts as***  
8 ***specified in this paragraph on any land within the state that is owned or managed by the***  
9 ***federal government.***

10           124:4 Effective Date. This act shall take effect upon its passage.

11           Approved: June 16, 2014

12           Effective Date: June 16, 2014