

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 482-A

FILL AND DREDGE IN WETLANDS

Section 482-A:3

482-A:3 Excavating and Dredging Permit; Certain Exemptions. –

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

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

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

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

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

(c) The application fee shall be \$200 for minimum impact dredge and fill projects under this chapter. The application fee for all projects under this chapter which are not covered by subparagraph (b) or (c) or paragraphs IV-a, V, X through XII, XV, XVI, or XVII through XIX shall be \$.20 per square foot of proposed impact, with a minimum fee of \$200 for all such projects that impact fewer than 1,000 square feet.

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

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

department from taking appropriate action in the event an applicant fails to provide the required notice or provides false information.

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

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

I-a. Notwithstanding any law or rule to the contrary, in reviewing requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

II. (a) The department shall submit to the governor and council all requests for permits approved by the department which meet the definition of major projects located in great ponds or public-owned water bodies under the rules of the department which have been approved by the department.

(b) The governor and council shall consider the request for permit transmitted by the department. The governor and council may approve as transmitted or deny the submitted request. Following action by the governor and council the requests shall be returned to the department for permitting, if approved, or filing, if denied.

III. The filing fees collected pursuant to paragraphs I, V(c), XI(h), and XII(c) are continually appropriated to and shall be expended by the department for paying per diem and expenses of the public members of the council, hiring additional staff, reviewing applications and activities relative to the wetlands of the state and protected shorelands under RSA 483-B, conducting field investigations, and holding public hearings. Such fees shall be held by the treasurer in a nonlapsing fund identified as the wetlands and shorelands review fund.

IV. (a) The replacement or repair of existing structures in or adjacent to any waters of the state which does not involve excavation, removal, filling, or dredging in any waters or of any bank, flat, marsh, or swamp is exempt from the provisions of this chapter.

(b) Man-made nontidal drainage ditches, roadside and railroad ditches, detention basins, ponds, and wetlands that have been legally constructed to collect, convey, treat, or control storm water and spring run-off, legally constructed ponds on active farms, erosional features caused by proximate human activity, fire ponds and intake areas of dry hydrants that have been legally constructed to provide water for municipal firefighting purposes as approved by a local fire chief, and aggregate wash ponds, sluiceways, and other legally constructed man-made water conveyance systems that are used for the commercial or industrial purpose of collecting, conveying, storing, and recycling water, may be maintained, repaired, replaced, or modified as necessary to preserve their usefulness without a permit under this chapter; provided, that the exempted facility, area, or feature is not extended into any area of wetlands jurisdiction of the department of environmental services, dredged spoils are deposited in areas outside wetlands jurisdiction of the department of environmental services, wetlands or surface waters outside the limits of the exempted facility, area, or feature are neither disturbed nor degraded, the exempted facility, area, or feature was not constructed as mitigation under a wetlands permit or as part of a settlement agreement, best management practices are followed, and the work does not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.

(c) Legally constructed culverts may be cleaned as necessary to preserve their usefulness without

a permit under this chapter provided the conditions of subparagraph (b) are met, however any repair, replacement or modification of a culvert must be made in accordance with RSA 482-A:3, XVI.

IV-a. Temporary seasonal docks installed on any lake or pond shall be exempt from the permitting requirements of this section, provided that a notification is sent to the department by the owner of property that includes the name and address of the property owner, the municipality, the waterbody, and tax map and lot number on which the proposed dock will be located. To qualify for an exemption under this paragraph, a temporary seasonal dock shall be:

- (a) The only docking structure on the frontage;
- (b) Constructed to be removed during the non-boating season;
- (c) Removed from the lake bed for a minimum of 5 months of each year;
- (d) Configured to be narrow, rectangular, and erected perpendicular to the shoreline;
- (e) No more than 6 feet wide and no more than 40 feet long if the water body is 1,000 acres or larger, or no more than 30 feet long if the water body is less than 1,000 acres;
- (f) Located on a parcel of land that has 75 feet or more of shoreline frontage;
- (g) Located at least 20 feet from an abutting property line or the imaginary extension of the property line over the water;
- (h) Installed in a manner which requires no modification, regrading, or recontouring of the shoreline, such as installation of a concrete pad for construction of a hinged dock;
- (i) Installed in a manner which complies with RSA 483-B; and
- (j) Installed in a location that is not in, or adjacent to, an area that has been designated as a prime wetland in accordance with RSA 482-A:15.

V. (a) Persons who have complied with notice of intent to cut wood requirements under RSA 79:10, and who have filed an appropriate notice of intent with the department and the department of resources and economic development, shall have satisfied the permitting requirements of this section for minimum impact activities only as defined by rules adopted by the commissioner. Minimum impact notifications issued by the department shall be valid for 2 years.

(b) Appropriate notice to the department and the department of resources and economic development shall include the following information:

- (1) Name and address of property owner;
- (2) Name and address of logger or forester;
- (3) Town, tax map, number and lot number of job site; and
- (4) A copy of the appropriate United States Geological Survey topographic map, or a copy of the appropriate United States Natural Resources Conservation Service soils map, with the type and location of all wetland and waterbody crossings clearly indicated.

(c) A \$25 filing fee shall accompany the notice to the department. Such fees shall be held in accordance with paragraph III.

(d) The filing of an intent to cut form under RSA 79:10 shall be considered as permission to the department or the department of resources and economic development, or their agents, to enter the property for determining compliance with this chapter.

(e) The certificate issued under RSA 79:10 shall be posted upon receipt. Prior to receipt of such certificate, a copy of the intent to cut form, signed by the appropriate municipal official, shall be available on the job site, and shall be shown to any person who asks to see it.

VI. The permittee shall record, in the registry of deeds for the county or counties in which the real estate is located, each permit granted under this chapter for the installation, construction, or repair of a dock, docking facility, or marina, or for alteration of wetlands associated with a subdivision of 4 or more lots. The permit shall not be effective until so recorded.

VII. No person shall destroy, raze, deface, reduce, alter, build upon or remove any sand or vegetation from any sand dune in this state without a permit from the department; provided, however, that any person may remove sand which blows or drifts onto any lawn, driveway, walkway, parking

or storage area, or boat ramp, or which blows or drifts in, on, or around buildings or other structures owned by the person. Upon request of the property owner, the department shall provide a preapplication assessment of any lot of record located in sand dunes.

VIII. Except as set forth in paragraph IX, no person shall operate or ride any mechanized or off highway recreational vehicle on any sand dune in the state of New Hampshire.

IX. This section shall not apply to:

- (a) Police vehicles or fire vehicles.
- (b) Vehicles used in cases of emergency.
- (c) Authorized maintenance vehicles when performing maintenance duties.
- (d) Vehicles used by commercial fishermen or commercial lobstermen when engaged in activities related to fishing or lobstering.

X. (a) The maximum cash application fee for the New Hampshire department of transportation shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the department. The department may enter into a memorandum of agreement with the New Hampshire department of transportation to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

(b) For tidal dredging projects with the primary purpose to improve navigation for a municipality, the maximum application fee for a municipality shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the department. The department may enter into a memorandum of agreement with a municipality to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

(c) For municipal dredging projects with the primary purpose to restore or reclaim a lake or pond, the maximum application fee for a municipality shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the department. The department may enter into a memorandum of agreement with a municipality to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of the standard application fees.

XI. (a) Small motor mineral dredging shall be limited to activities which are classified as minimum impact under rules adopted by the commissioner under RSA 482-A:11 and which do not exceed the following limits:

- (1) Power equipment shall be limited to 5 horsepower.
- (2) Suction dredges shall be limited to a single 4-inch diameter intake nozzle.
- (3) Sluice and rocker boxes shall be limited to 10 square feet.

(b) Any person who wishes to engage in small motor mineral dredging shall obtain a permit from the department. A permit application shall be filed directly with the department, and the procedural requirements of RSA 482-A:3, I and RSA 482-A:11, III shall not apply. Any permit issued by the department under this paragraph shall expire at the end of the calendar year in which it is issued. Any person who engages in panning only shall not be required to obtain a permit but shall be subject to rules of the department. Panning shall include those activities associated with the manual search for minerals in a river bed without the use of motorized equipment.

(c) Any person wishing to engage in mineral dredging which in any way exceeds the limits of small motor mineral dredging shall first obtain, in addition to a wetlands permit, a mining permit from the department of resources and economic development pursuant to RSA 12-E.

(d) The commissioner shall adopt rules, under RSA 541-A, relative to:

- (1) Small motor mineral dredging and panning.
- (2) The issuance of statewide small motor mineral dredging permits.
- (3) Any other matters relative to small motor mineral dredging and panning.

(e) The state shall retain the right to prohibit panning and mineral dredging activity at certain times or in certain locations when such activity would be detrimental to the public interest for reasons including, but not limited to, environmental and wildlife protection.

(f) Any person who has obtained a small motor mineral dredging permit from the department pursuant to this paragraph, or any person who intends to engage in any panning activity shall, prior to engaging in any small motor mineral dredging or panning activity, obtain the written permission to engage in such activity from the riverbed landowner on whose property the activity is to be conducted.

(g) The department may enter into a cooperative agreement with the fish and game department relative to enforcement of the provisions of this paragraph.

(h) Application fees shall be \$25 for residents of the state of New Hampshire and \$50 for out-of-state applicants. Fees shall be collected by the department and held in accordance with paragraph III.

XII. (a) Persons who construct and maintain recreational trails in accordance with the Best Management Practices for Erosion Control During Trail Maintenance and Construction published by the department of resources and economic development and who have filed an appropriate notice, as described in subparagraph (b), to construct or maintain such trails with the department and the department of resources and economic development shall have satisfied the permitting requirements of this section for minimum impact activities, as defined by rules adopted by the commissioner.

(b) Appropriate notice to the department and the department of resources and economic development shall include the following information:

(1) Name and address of organization constructing or maintaining the recreational trail.

(2) Name and address of property owner.

(3) Town, tax map number, and lot number of property.

(4) A copy of the appropriate United States Geological Survey topographic map with the type and location of all wetland and waterbody crossings clearly indicated.

(c) A \$25 filing fee shall accompany the notice to the department. Such fees shall be held in accordance with paragraph III.

XIII. (a) All boat docking facilities shall be at least 20 feet from an abutting property line in non-tidal waters, and at least 20 feet in tidal waters.

(b) Boat docking facilities may be perpendicular or parallel to the shoreline or extend at some other angle into a water body, depending on the needs of the landowners, factors related to safe navigation, and the difficulty of construction. However, any boat secured to such a dock shall not extend beyond the extension of the abutter's property line.

(c) Notwithstanding the provisions of subparagraph (a), boat docking facilities may be located closer than 20 feet from an abutter's property line in non-tidal waters and 20 feet in tidal waters, if the owner of the boat docking facility obtains the written consent of the abutting property owner. Such consent shall be signed by all parties, notarized and filed with the dock application with the department of environmental services.

(d) Abutters may apply for a common dock on or near their common property line. Any application for a common dock shall be accompanied by a notarized written agreement which shall be signed by all property owners. Such agreement shall be filed at the registry of deeds and attached to the deed of each property owner.

XIV. (a) In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(1) Within 14 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, at the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee to whom all correspondence shall be directed by the designated department employee regarding incompleteness of the application. Each

receipt of additional information in response to any notice shall re-commence the 14-day period until the department issues a notice of administrative completeness. Any notice of incompleteness sent under this subparagraph shall specify that the applicant or authorized agent shall submit such information as soon as practicable and shall notify the applicant or authorized agent that if the requested information is not received within 60 days of the notice, the department shall deny the application.

(2) Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. Such request and technical comments may be sent by electronic means if the applicant or authorized agent has indicated an agreement to accept communications by electronic means, either by so indicating on the application or by a signed statement from the applicant or authorized agent that communicating by electronic means is acceptable. Any request for additional information under this subparagraph shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 60 days of the request, the department shall deny the application. The department may grant an extension of this 60-day time period upon request of the applicant.

(3) Where the department requests additional information pursuant to subparagraph (a)(2), within 30 days of the department's receipt of a complete response to the department's information request:

(A) Approve the application, in whole or in part, and issue a permit; or
(B) Deny the application and issue written findings in support of the denial; or
(C) Schedule a public hearing in accordance with this chapter and rules adopted by the commissioner; or

(D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant; or

(4) Where no request for additional information is made pursuant to subparagraph (a)(2), within 75 days from the issuance of the notice of administrative completeness for proposed projects under one acre of jurisdictional impact, or 105 days for all others:

(A) Approve the application, in whole or in part, and issue a permit; or
(B) Deny the application and issue written findings in support of the denial; or
(C) Schedule a public hearing in accordance with this chapter and rules adopted by the commissioner; or

(D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(5) Where the department has held a public hearing on an application filed under this chapter, within 60 days following the closure of the hearing record, approve the application in whole or in part, and issue a permit or deny the application and issue written findings in support of the denial.

(b)(1) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (a)(3), (a)(4), and (a)(5), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

(A) Approve the application, in whole or in part, and issue a permit; or
(B) Deny the application and issue written findings in support of the denial.

(3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter, RSA 485-A relating to water quality, and federal requirements.

(4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (b)(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this chapter, and RSA 485-A relating to water quality, and federal requirements.

(c) If extraordinary circumstances prevent the department from conducting its normal function, time frames prescribed by this paragraph shall be suspended until such condition has ended, as determined by the commissioner.

(d) The time limits prescribed by this paragraph shall not apply to an application filed after the applicant has already undertaken some or all of the work covered by the application, or where the applicant has been adjudicated after final appeal, or otherwise does not contest, the department's designation as a chronic non-complier in accordance with rules adopted pursuant to this chapter.

(e) Any request for a significant amendment to a pending application or an existing permit which changes the footprint of the permitted fill or dredge area shall be deemed a new application subject to the provisions of RSA 482-A:3, I and the time limits prescribed by this paragraph. "Significant amendment" means an amendment which changes the proposed or previously approved acreage of the permitted fill or dredge area by 20 percent or more, relocates the proposed footprint of the permitted fill or dredge area, includes a prime wetland or surface waters of the state, includes a wetland of a different classification as classified by the department, or includes non-wetland areas requiring permits for filling and dredging. This meaning of "significant amendment" shall not apply to an application amendment that is in response to a request from the department.

(f) The department may extend the time for rendering a decision under subparagraphs (a)(3)(D) and (a)(4)(D), without the applicant's agreement, on an application from an applicant who previously has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this chapter or any rule adopted or permit or approval issued under this chapter, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this chapter, pursuant to an action initiated under RSA 482-A:13, RSA 482-A:14, or RSA 482-A:14-b. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, but shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

XIV-a. (a) With the exception of permits issued under subparagraph (b), all permits issued pursuant to this chapter shall be valid for a period of 5 years. Requests for extensions of such permits may be made to the department. The department shall grant one extension of up to 5 additional years, provided the applicant demonstrates all of the following:

(1) The permit for which extension is sought has not been revoked or suspended without reinstatement.

(2) Extension would not violate a condition of law or rule.

(3) The project is proceeding towards completion in accordance with plans and other documentation referenced by the permit.

(4) The applicant proposes reasonable mitigation measures to protect the public waters of the state from deterioration during the period of extension.

(b) Any permit issued to repair or replace shoreline structures to maintain the integrity and safety of such structures including, but not limited to docks, sea walls, breakwaters, riprap, access ramps and stairs, that are damaged by storms or ice, shall expire 10 years from the date the permit was issued as long as any work performed after the initial permitted work complies with the following:

(1) The work is not in violation of the original permit or subparagraphs (a)(1)-(4).

(2) All structures are repaired or replaced to the original permitted location and configuration.

(3) All significant work is reported to the department in accordance with the reporting requirements for the original permit.

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

XV. (a) Utility providers who maintain and repair existing utility services within existing rights of way under the Best Management Practices Manual for Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire published by the department of resources and economic development, and who have complied with subparagraphs (b)-(e) shall satisfy the permitting requirements of this section, including any portion located in or adjacent to a prime wetland, for minimum impact activities as defined by rules adopted by the commissioner.

(b) Appropriate notice to the department shall include the following information:

(1) The name and address of the person, employed by the utility provider responsible for overseeing the maintenance.

(2) A brief written description of the nature of the work to be conducted.

(3) A copy of the appropriate United States Geological Survey topographic map with the locations of the projects indicated.

(c) Appropriate notice to the town clerk of each municipality in which work will occur shall include the name of a utility provider contact and a brief description of the work to be conducted.

(d) A one-time annual filing fee of \$200 per town, not to exceed a maximum of \$10,000, shall accompany the notice to the department. Such fees shall be held in accordance with paragraph III.

(e) No additional fee shall be required for amendments to the notification as long as additional towns are not included in the amendment. Additional towns included in the amendment shall be subject to an additional fee of \$200 per town, not to exceed the annual maximum under subparagraph (d).

XVI. (a) Except as provided in paragraph XVII, any person or political subdivision that repairs or replaces culverts or stream crossing structures in accordance with the best management practices for routine roadway maintenance in New Hampshire published by the department of transportation, including culverts up to and including 48 inches in diameter or the functional hydraulic equivalent, and files an appropriate notice under subparagraph (b), shall satisfy the permitting requirements of this section for minimum impact activities, as defined by rules adopted by the commissioner.

(b) Appropriate notice to the department shall include a completed routine roadway notification form as outlined in Env Wt 303.05 including, at a minimum, the following information:

(1) Name and mailing address of the applicant or authorized person.

(2) Name and mailing address of the applicant or authorized agent, if any, representing the political subdivision.

(3) Telephone number, and email address and fax number if available.

(4) A copy of the appropriate United States Geological Survey topographic map at its original scale on 8 1/2 x 11 sheets with the project locations clearly labeled.

(5) Town tax map, number, and lot number, if any, of the project sites.

(6) Project location including street name and address or distance from the nearest intersection to the project.

(7) Information regarding the existing and proposed structure shown on plan sheets or equivalent plans as shown in the best management practices for routine roadway manual and a listing of the best management practices to be used during construction.

(8) Color photographs depicting the proposed work sites showing existing structures, surrounding land, and jurisdictional areas in and adjacent to the work location.

(9) A signed certification that information is accurate and correct and that work will conform to the best management practices for routine roadway maintenance.

(c) Appropriate notice to the department under subparagraphs (a) and (b) shall be mailed and received by department at least 5 days prior to the start of construction.

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

XVIII. The department shall develop an installer's certification program, in accordance with paragraph XVII, and shall determine the educational requirements for certification, including continuing education requirements. Professional engineers who are duly licensed by the New Hampshire board of professional engineers are exempt from the program requirements of this section. All certified individuals who perform such work shall submit a quarterly report to the department fully identifying work that they performed during each quarter and documentation of continuing education requirements.

XIX. The department shall issue an installer's permit to any individual who submits an application provided by the department, and has satisfactorily completed the program in accordance with paragraphs XVII and XVIII. Permits shall be issued from January 1 and shall expire December 31 of every other year. Permits shall be renewable upon proper application, and documentation of compliance with the continuing education requirement of paragraph XVIII. The installer's permit may be suspended, revoked, or not renewed for just cause, including, but not limited to, the installation of culverts in violation of this chapter or the refusal by a permit holder to correct defective work. The department shall not suspend, revoke, or refuse to renew a permit except for just cause until the

permit holder has had an opportunity to be heard by the department. An appeal from such decision to revoke, suspend, or not renew a permit may be taken pursuant to RSA 21-O:14.

Source. 1989, 339:1. 1990, 3:84, 85; 83:2. 1991, 20:3; 273:1. 1992, 37:2, 3; 278:3, 6. 1994, 26:1. 1995, 206:2; 236:1, 2. 1996, 250:2; 296:40-42. 1997, 212:1-3. 1998, 224:1. 2001, 144:1. 2002, 272:15. 2003, 224:1-3. 2004, 2:1; 116:4. 2005, 29:1. 2007, 211:1; 263:32, 33; 269:3, 7. 2008, 5:24; 363:1. 2009, 185:1; 201:1, 2. 2010, 295:1-3. 2011, 114:1, 2; 143:1; 195:1-3. 2012, 145:1, eff. Aug. 6, 2012; 273:1, 2, eff. June 19, 2012. 2013, 151:1, eff. July 1, 2013. 2014, 124:1-3, eff. June 16, 2014.