

Bill as  
Introduced

**HB 416 – AS INTRODUCED**

2013 SESSION

13-0522

05/10

**HOUSE BILL 416**

AN ACT shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

SPONSORS: Rep. Ahlgren, Carr 6

COMMITTEE: Resources, Recreation and Development

**ANALYSIS**

This bill shortens the process for appealing a permitting decision under RSA 482-A, relative to fill and dredge in wetlands, by removing the requirement to request reconsideration.

-----  
-----  
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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

13-0522

05/10

**STATE OF NEW HAMPSHIRE**

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

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

1 Public Comment and Hearing. Amend RSA 482-A:8 to read as follows:

482-A:8 Public Comment and Hearing. The department shall provide a reasonable opportunity for public comment on proposals under RSA 482-A:3 and shall hold a public

hearing for projects with significant impact on the resources protected by this chapter or of substantial public interest. The department shall notify by mail, the applicant and the property owner if different, the local governing body of the municipality involved, the planning board, if any, and the municipal conservation commission, if any, of the hearing. The department shall maintain a chronological file of all applications received under RSA 482-A:3, which shall be available for public review during normal business hours. The hearing requirement in this section may not apply to such minor projects and to such minor improvements of the shoreline of those waters subject to the jurisdiction of this chapter as the department may by reasonable rule provide. ~~[The hearing requirements of RSA 541-A:30 shall be satisfied by a hearing on reconsideration in accordance with RSA 482-A:10, III.]~~

2 Dredge and Fill in Wetlands; Mediation and Appeal. Amend RSA 482-A:10 to read as follows:

482-A:10 Appeals.

I. Any person aggrieved by a decision made by the department under RSA 482-A:3 may ~~[apply for reconsideration by the department, and then may]~~ appeal to the wetlands council and to the supreme court as provided in ~~[this section]~~ ***RSA 21-O:14, including the provisions relative to requesting mediated or unmediated settlement discussions.*** A person aggrieved under this section shall mean the applicant and any person required to be noticed by mail in accordance with RSA 482-A:8 and RSA 482-A:9.

~~[I-a.]~~ ***II.*** Any person subject to an order of the department under RSA 482-A:6 may appeal to the wetlands council and to the supreme court as provided in ~~[this section]~~ ***RSA 21-O:14, including the provisions relative to requesting mediated or unmediated settlement discussions.*** ~~[The appellant shall not first request reconsideration, but shall file the appeal directly with the council as provided in paragraph IV, within 30 days of the date of the order.]~~

~~II.~~ A request for reconsideration of a department decision under RSA 482-A:3 shall be filed with the department within 30 days of issuance of the department's decision. The request for reconsideration shall describe in detail each ground for the request for reconsideration.

~~III.~~ On reconsideration, the department shall receive and consider any new and additional evidence presented, and shall make findings of fact and rulings of law in support of its decision after reconsideration. The department may hold a public hearing in accordance with its rules. Reconsideration hearings shall not be subject to the requirements of RSA 541-A. Reconsideration hearings shall be noticed in accordance with rules adopted by the department, which notice shall be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9, and the department shall make a record of the proceedings. The department shall grant or deny the request for reconsideration within 30 days of the department's receipt of the request or explain in writing to the applicant why the request cannot be acted on and a statement of the time

~~reasonably necessary to act on the request. However, if the basis for denial includes failure by the applicant to submit all requested information and the applicant submits all of the requested information with the request for reconsideration, the department shall act on the request within 75 days from the date of the department's receipt of the request for projects where the applicant proposes under one acre of jurisdictional impact, and within 105 days for all other projects.-]~~

[IV-] **III.** An appeal from a decision of the department under RSA 482-A:3 [~~after reconsideration,~~] or an appeal from an order issued by the department under RSA 482-A:6, shall be filed in accordance with the applicable provisions of RSA 21-O:14 and rules adopted by the council pursuant to RSA 541-A regarding the number of copies to be filed, the address to which the notice of appeal must be sent or delivered, and the method of delivery.

[IV-a-] **IV.** A notice of appeal to the council shall contain a detailed description of the land involved in the department's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal shall be considered by the council.

V. [~~The council on appeal shall hold]~~ **Any appeal hearing held by the council shall be** an adjudicative hearing as provided in RSA 541-A and the council's rules. The hearing shall be noticed in accordance with RSA 541-A:31, III. For appeals of department decisions under RSA 482-A:3, the notice shall also be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. On appeal of 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. All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

V-a. Any person whose rights will be directly affected by the outcome of the appeal may appear and become a party to the appeal. Any person whose rights may be directly affected by the outcome of the appeal may file a request to intervene as provided in RSA 541-A:32.

VI. On appeal, the council may affirm the decision of the department or may remand to the department with a determination that the decision complained of is unlawful or unreasonable. The council shall specify the factual and legal basis for its determination and shall identify the evidence in the record created before the council that supports its decision.

VII. Any party aggrieved by a decision of the council may apply to the council for reconsideration as specified in RSA 541.

VIII. Any party aggrieved by a decision of the council after reconsideration may appeal to the supreme court as specified in RSA 541.

IX. In the case of a remand to the department by the council, the department may accept the council's determination and reissue a decision or order, imposing such conditions as are necessary and consistent with the purposes of this chapter, or may appeal as provided in paragraphs VII and VIII.

X. [Repealed.]

XI. [Repealed.]

XII. [Repealed.]

XIII. [Repealed.]

XIV. [Repealed.]

XV. [Repealed.]

XVI. [Repealed.]

XVII. [Repealed.]

XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the conservation commission or local governing body may ~~request reconsideration by the department and, if aggrieved by the decision or reconsideration,~~ appeal said decision to the wetlands council and the supreme court in the manner prescribed in this section. The filing of a request for reconsideration *under paragraph VII* shall automatically stay the effectiveness of the ~~[department's]~~ *council's* decision relating to said prime wetland. Said stay shall remain in force until the ~~[department]~~ *council* has issued its decision after reconsideration.

3 Dwellings Over Water. Amend RSA 482-A:26, V to read as follows:

V. The provisions of RSA 482-A:10, relative to ~~[reconsideration and]~~ appeals, and RSA 482-A:10-a, relative to takings without compensation, shall apply to all decisions of the department made under paragraph III.

4 Effective Date. This act shall take effect 60 days after its passage.

**HB 416 – VERSION ADOPTED BY BOTH BODIES**

2013 SESSION

13-0522

05/10

**HOUSE BILL 416**

AN ACT shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

SPONSORS: Rep. Ahlgren, Carr 6

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill shortens the process for appealing a permitting decision under RSA 482-A, relative to fill and dredge in wetlands, by removing the requirement to request reconsideration.

-----  
-----  
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.

13-0522

05/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

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

1 Public Comment and Hearing. Amend RSA 482-A:8 to read as follows:

482-A:8 Public Comment and Hearing. The department shall provide a reasonable opportunity for public comment on proposals under RSA 482-A:3 and shall hold a public

hearing for projects with significant impact on the resources protected by this chapter or of substantial public interest. The department shall notify by mail, the applicant and the property owner if different, the local governing body of the municipality involved, the planning board, if any, and the municipal conservation commission, if any, of the hearing. The department shall maintain a chronological file of all applications received under RSA 482-A:3, which shall be available for public review during normal business hours. The hearing requirement in this section may not apply to such minor projects and to such minor improvements of the shoreline of those waters subject to the jurisdiction of this chapter as the department may by reasonable rule provide. ~~[The hearing requirements of RSA 541-A:30 shall be satisfied by a hearing on reconsideration in accordance with RSA 482-A:10, III.]~~

2 Dredge and Fill in Wetlands; Mediation and Appeal. Amend RSA 482-A:10 to read as follows:

482-A:10 Appeals.

I. Any person aggrieved by a decision made by the department under RSA 482-A:3 may ~~[apply for reconsideration by the department, and then may]~~ appeal to the wetlands council and to the supreme court as provided in ~~[this section]~~ ***RSA 21-O:14, including the provisions relative to requesting mediated or unmediated settlement discussions.*** A person aggrieved under this section shall mean the applicant and any person required to be noticed by mail in accordance with RSA 482-A:8 and RSA 482-A:9.

~~[I-a.]~~ ***II.*** Any person subject to an order of the department under RSA 482-A:6 may appeal to the wetlands council and to the supreme court as provided in ~~[this section]~~ ***RSA 21-O:14, including the provisions relative to requesting mediated or unmediated settlement discussions.*** ~~[The appellant shall not first request reconsideration, but shall file the appeal directly with the council as provided in paragraph IV, within 30 days of the date of the order.]~~

~~II.~~ A request for reconsideration of a department decision under RSA 482-A:3 shall be filed with the department within 30 days of issuance of the department's decision. The request for reconsideration shall describe in detail each ground for the request for reconsideration.

~~III.~~ On reconsideration, the department shall receive and consider any new and additional evidence presented, and shall make findings of fact and rulings of law in support of its decision after reconsideration. The department may hold a public hearing in accordance with its rules. Reconsideration hearings shall not be subject to the requirements of RSA 541-A. Reconsideration hearings shall be noticed in accordance with rules adopted by the department, which notice shall be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9, and the department shall make a record of the proceedings. The department shall grant or deny the request for reconsideration within 30 days of the department's receipt of the request or explain in writing to the applicant why the request cannot be acted on and a statement of the time

~~reasonably necessary to act on the request. However, if the basis for denial includes failure by the applicant to submit all requested information and the applicant submits all of the requested information with the request for reconsideration, the department shall act on the request within 75 days from the date of the department's receipt of the request for projects where the applicant proposes under one acre of jurisdictional impact, and within 105 days for all other projects.]~~

[IV.] **III.** An appeal from a decision of the department under RSA 482-A:3 [after reconsideration,] or an appeal from an order issued by the department under RSA 482-A:6, shall be filed in accordance with the applicable provisions of RSA 21-O:14 and rules adopted by the council pursuant to RSA 541-A regarding the number of copies to be filed, the address to which the notice of appeal must be sent or delivered, and the method of delivery.

[IV-a.] **IV.** A notice of appeal to the council shall contain a detailed description of the land involved in the department's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal shall be considered by the council.

V. [The council on appeal shall hold] **Any appeal hearing held by the council shall be** an adjudicative hearing as provided in RSA 541-A and the council's rules. The hearing shall be noticed in accordance with RSA 541-A:31, III. For appeals of department decisions under RSA 482-A:3, the notice shall also be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. On appeal of 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. All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

V-a. Any person whose rights will be directly affected by the outcome of the appeal may appear and become a party to the appeal. Any person whose rights may be directly affected by the outcome of the appeal may file a request to intervene as provided in RSA 541-A:32.

VI. On appeal, the council may affirm the decision of the department or may remand to the department with a determination that the decision complained of is unlawful or unreasonable. The council shall specify the factual and legal basis for its determination and shall identify the evidence in the record created before the council that supports its decision.

VII. Any party aggrieved by a decision of the council may apply to the council for reconsideration as specified in RSA 541.



VIII. Any party aggrieved by a decision of the council after reconsideration may appeal to the supreme court as specified in RSA 541.

IX. In the case of a remand to the department by the council, the department may accept the council's determination and reissue a decision or order, imposing such conditions as are necessary and consistent with the purposes of this chapter, or may appeal as provided in paragraphs VII and VIII.

X. [Repealed.]

XI. [Repealed.]

XII. [Repealed.]

XIII. [Repealed.]

XIV. [Repealed.]

XV. [Repealed.]

XVI. [Repealed.]

XVII. [Repealed.]

XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the conservation commission or local governing body may ~~request reconsideration by the department and, if aggrieved by the decision or reconsideration,~~ appeal said decision to the wetlands council and the supreme court in the manner prescribed in this section. The filing of a request for reconsideration *under paragraph VII* shall automatically stay the effectiveness of the ~~department's~~ *council's* decision relating to said prime wetland. Said stay shall remain in force until the ~~department~~ *council* has issued its decision after reconsideration.

3 Dwellings Over Water. Amend RSA 482-A:26, V to read as follows:

V. The provisions of RSA 482-A:10, relative to ~~reconsideration and~~ appeals, and RSA 482-A:10-a, relative to takings without compensation, shall apply to all decisions of the department made under paragraph III.

4 Effective Date. This act shall take effect 60 days after its passage.

## CHAPTER 43

## HB 416 – FINAL VERSION

2013 SESSION

13-0522

05/10

HOUSE BILL **416**

AN ACT shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

SPONSORS: Rep. Ahlgren, Carr 6

COMMITTEE: Resources, Recreation and Development

## ANALYSIS

This bill shortens the process for appealing a permitting decision under RSA 482-A, relative to fill and dredge in wetlands, by removing the requirement to request reconsideration.

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.

13-0522

05/10

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

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

43:1 Public Comment and Hearing. Amend RSA 482-A:8 to read as follows:

482-A:8 Public Comment and Hearing. The department shall provide a reasonable opportunity for public comment on proposals under RSA 482-A:3 and shall hold a public hearing for projects with significant impact on the resources protected by this chapter or of substantial public interest. The department shall notify by mail, the applicant and the property owner if different, the local governing body of the municipality involved, the planning board, if any, and the municipal conservation commission, if any, of the hearing. The department shall maintain a chronological file of all applications received under RSA 482-A:3, which shall be available for public review during normal business hours. The hearing requirement in this section may not apply to such minor projects and to such minor improvements of the shoreline of those waters subject to the jurisdiction of this chapter as the department may by reasonable rule provide. ~~[The hearing requirements of RSA 541-A:30 shall be satisfied by a hearing on reconsideration in accordance with RSA 482-A:10, III.]~~

43:2 Dredge and Fill in Wetlands; Mediation and Appeal. Amend RSA 482-A:10 to read as follows:

482-A:10 Appeals.

I. Any person aggrieved by a decision made by the department under RSA 482-A:3 may ~~[apply for reconsideration by the department, and then may]~~ appeal to the wetlands council and to the supreme court as provided in ~~[this section]~~ ***RSA 21-O:14, including the provisions relative to requesting mediated or unmediated settlement discussions.*** A person aggrieved under this section shall mean the applicant and any person required to be noticed by mail in accordance with RSA 482-A:8 and RSA 482-A:9.

~~[I-a.]~~ II. Any person subject to an order of the department under RSA 482-A:6 may appeal to the wetlands council and to the supreme court as provided in ~~[this section]~~ ***RSA 21-O:14, including the provisions relative to requesting mediated or unmediated settlement discussions.*** ~~[The appellant shall not first request reconsideration, but shall file the appeal directly with the council as provided in paragraph IV, within 30 days of the date of the order.]~~

II. A request for reconsideration of a department decision under RSA 482-A:3 shall be filed with the department within 30 days of issuance of the department's decision. The request for reconsideration shall describe in detail each ground for the request for reconsideration.

III. ~~On reconsideration, the department shall receive and consider any new and additional evidence presented, and shall make findings of fact and rulings of law in support of its decision after reconsideration. The department may hold a public hearing in accordance with its rules. Reconsideration hearings shall not be subject to the requirements of RSA 541-A. Reconsideration hearings shall be noticed in accordance with rules adopted by the department, which notice shall be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9, and the department shall make a record of the proceedings. The department shall grant or deny the request for~~

~~reconsideration within 30 days of the department's receipt of the request or explain in writing to the applicant why the request cannot be acted on and a statement of the time reasonably necessary to act on the request. However, if the basis for denial includes failure by the applicant to submit all requested information and the applicant submits all of the requested information with the request for reconsideration, the department shall act on the request within 75 days from the date of the department's receipt of the request for projects where the applicant proposes under one acre of jurisdictional impact, and within 105 days for all other projects.]~~

[IV.] **III.** An appeal from a decision of the department under RSA 482-A:3 [after reconsideration,] or an appeal from an order issued by the department under RSA 482-A:6, shall be filed in accordance with the applicable provisions of RSA 21-O:14 and rules adopted by the council pursuant to RSA 541-A regarding the number of copies to be filed, the address to which the notice of appeal must be sent or delivered, and the method of delivery.

[IV-a.] **IV.** A notice of appeal to the council shall contain a detailed description of the land involved in the department's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal shall be considered by the council.

**V.** [The council on appeal shall hold] *Any appeal hearing held by the council shall be* an adjudicative hearing as provided in RSA 541-A and the council's rules. The hearing shall be noticed in accordance with RSA 541-A:31, III. For appeals of department decisions under RSA 482-A:3, the notice shall also be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. On appeal of 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. All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

**V-a.** Any person whose rights will be directly affected by the outcome of the appeal may appear and become a party to the appeal. Any person whose rights may be directly affected by the outcome of the appeal may file a request to intervene as provided in RSA 541-A:32.

**VI.** On appeal, the council may affirm the decision of the department or may remand to the department with a determination that the decision complained of is unlawful or unreasonable. The council shall specify the factual and legal basis for its determination and shall identify the evidence in the record created before the council that supports its decision.

**VII.** Any party aggrieved by a decision of the council may apply to the council for

reconsideration as specified in RSA 541.

VIII. Any party aggrieved by a decision of the council after reconsideration may appeal to the supreme court as specified in RSA 541.

IX. In the case of a remand to the department by the council, the department may accept the council's determination and reissue a decision or order, imposing such conditions as are necessary and consistent with the purposes of this chapter, or may appeal as provided in paragraphs VII and VIII.

X. [Repealed.]

XI. [Repealed.]

XII. [Repealed.]

XIII. [Repealed.]

XIV. [Repealed.]

XV. [Repealed.]

XVI. [Repealed.]

XVII. [Repealed.]

XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the conservation commission or local governing body may ~~request reconsideration by the department and, if aggrieved by the decision or reconsideration,~~ appeal said decision to the wetlands council and the supreme court in the manner prescribed in this section. The filing of a request for reconsideration *under paragraph VII* shall automatically stay the effectiveness of the ~~department's~~ *council's* decision relating to said prime wetland. Said stay shall remain in force until the ~~department~~ *council* has issued its decision after reconsideration.

43:3 Dwellings Over Water. Amend RSA 482-A:26, V to read as follows:

V. The provisions of RSA 482-A:10, relative to ~~reconsideration and~~ appeals, and RSA 482-A:10-a, relative to takings without compensation, shall apply to all decisions of the department made under paragraph III.

43:4 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 4, 2013

Effective Date: August 3, 2013

# Committee Minutes

**AMENDED**  
**SENATE CALENDAR NOTICE**  
**ENERGY AND NATURAL RESOURCES**

Printed: 03/28/2013 at 3:23 pm

Senator Russell Prescott Chairman  
 Senator Bob Odell V Chairman  
 Senator Jeb Bradley  
 Senator Martha Fuller Clark  
 Senator Jeff Woodburn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: March 28, 2013**

**HEARINGS**

**Wednesday**

**4/3/2013**

**ENERGY AND NATURAL RESOURCES**

**LOB 101**

**9:00 AM**

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

9:00 AM	HB349	relative to OHRV operation of certain 4-wheel drive vehicles on trails within Jericho Mountain state park.
9:15 AM	HB574	(New Title) increasing the size limitations for OHRVs operating on state-owned trails in Coos and Grafton counties.
9:30 AM	HB416	shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.
9:45 AM	HB516	establishing a committee to study the overlap of federal, state, and local regulation relative to environmental issues.
10:00 AM	HB517	relative to the incidental combustion of untreated wood at certain municipal transfer stations.
10:15 AM	HB374	relative to electric utility investment in distributed energy resources.

**Sponsors:**

<b>HB349</b>	Rep. Herbert Richardson	Rep. Robert Theberge	Sen. Jeff Woodburn
Rep. Gary Coulombe			
<b>HB574</b>	Rep. Yvonne Thomas	Rep. Herbert Richardson	Sen. Sharon Carson
Rep. Robert Theberge			
<b>HB416</b>	Rep. Christopher Ahlgren		
Rep. John Cebrowski	Rep. David Danielson		
<b>HB516</b>			
Rep. Gene Chandler	Rep. Edward Butler	Sen. Jeb Bradley	Sen. Jeanie Forrester
Rep. David Campbell	Rep. Peter Leishman		
<b>HB374</b>			
Rep. Ian Raymond	Rep. Suzanne Smith	Rep. Lisa DiMartino	Sen. Andrew Hosmer
Rep. James Devine			

Chris Cote 271-3067

Sen. Russell Prescott  
Chairman

# SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

*Chris Cote, Legislative Aide*

**HB 416 – shortening the appeals process for a permitting decision under  
RSA 482-A, relative to fill and dredge in wetlands.**

Hearing Date: 4.3.13

Time Opened: 10:11am

Time Closed: 10:18am

**Members of the Committee Present:** Senators Bradley, Fuller Clark, Odell,  
and Woodburn

**Members of the Committee Absent:** Senator Prescott

**Bill Analysis:** This bill shortens the process for appealing a permitting decision  
under RSA 482-A, relative to fill and dredge in wetlands, by removing the  
requirement to request reconsideration.

---

**Sponsors:** Rep. Ahlgren, Carr 6

**Who supports the bill:** Rep. Smith, Rep. Chaunelly, Paul Morin Home Builders  
and Remodelers, Rep. Chris Ahlgren, Pete Demas NHDES,

**Who opposes the bill:**

**Summary of testimony presented in support:**

- Rep. Chris Algren, Carol County, during the previous work on this issue, 40%  
of the appeals made to DES are by landowners but most are really brought  
forth by interested parties, the reconsideration process for wetlands was  
unique, this bill would improve the process

**Summary of testimony presented in opposition:** none

**Fiscal Note:**

See Fiscal Note

**Future Action:**

CSC

Date hearing report completed: 4.4.13

[file: HB 0416 report]



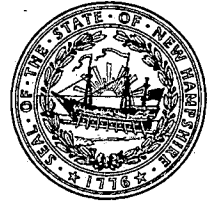
# Speakers



# Testimony



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

April 2, 2013

The Honorable Russell Prescott, Chairman  
Energy & Natural Resources Committee  
Legislative Office Building, Room 101  
Concord, NH 03301

Re: HB 416: An Act shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

Dear Senator Prescott:

Thank you for the opportunity to comment on House Bill 416, which would shorten the appeals process for fill and dredge permits issued by the Department of Environmental Services (DES). DES supports the bill as introduced.

Prior to 2008, the Wetlands Council (and its predecessor, the Wetlands Board) were required by RSA 482-A:10 to hold a record-based hearing on appeals from Department decisions under RSA 482-A. Because the opportunity to present testimony and evidence to the Council was limited, a reconsideration proceeding within the Department was needed to ensure that all relevant evidence was received and considered. In 2008, the Wetlands Council process was aligned with the other Councils associated with the Department, such that the Council now conducts evidentiary hearings in appeals under RSA 482-A. See Laws of 2008, 171:6. As such, there is no longer any need for the reconsideration process at the Department level, and the additional step simply adds two months or more to the appeals process.

Thank you for this opportunity to comment. Please contact Collis Adams at 271-4054, or me at 271-2958, if you have any questions or need additional information.

Sincerely,

Thomas S. Burack  
Commissioner

cc: Representative Ahlgren

# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: 4.11.13

THE COMMITTEE ON Energy and Natural Resources

to which was referred House Bill 416

AN ACT shortening the appeals process for a permitting decision  
under RSA 482-A, relative to fill and dredge in wetlands.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS**

BY A VOTE OF: 4-0

Senator Martha Fuller Clark  
For the Committee

Chris Cote 271-3067

## New Hampshire General Court - Bill Status System

**Docket of HB416**

Docket Abbreviations

**Bill Title:** shortening the appeals process for a permitting decision under RSA 482-A, relative to fill and dredge in wetlands.

*Official Docket of HB416:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/3/2013	H	<b>Introduced</b> 1/3/2013 and Referred to Resources, Recreation and Development; <b>HJ 12</b> , PG.195
2/6/2013	H	Public Hearing: 2/12/2013 1:00 PM LOB 305
2/13/2013	H	Executive Session: 3/5/2013 10:15 AM LOB 305
3/6/2013	H	Committee Report: Ought to Pass for Mar 20 (Vote 17-0; CC); <b>HC 23</b> PG.579
3/20/2013	H	<b>Ought to Pass:</b> MA VV; <b>HJ 27</b> , PG.842
3/21/2013	S	Introduced and Referred to Energy & Natural Resources
3/28/2013	S	Hearing: 4/3/13, Room 101, LOB, 9:30 a.m.; <b>SC14</b>
4/11/2013	S	Committee Report: Ought to Pass, 4/18/13; <b>SC16</b>
4/18/2013	S	<b>Ought to Pass:</b> MA, VV; OT3rdg;
4/18/2013	S	Enrolled
4/24/2013	H	Enrolled; <b>HJ38</b> , PG.1257
6/6/2013	H	Signed by Governor 06/04/2013; Effective 08/03/2013; Chapter 0043

NH House

NH Senate

# Other Referrals



HB 416

# COMMITTEE REPORT FILE INVENTORY

\_\_\_\_\_ ORIGINAL REFERRAL      \_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:


- AMENDMENT # \_\_\_\_\_       - AMENDMENT # \_\_\_\_\_  
 - AMENDMENT # \_\_\_\_\_       - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED       AS AMENDED BY THE HOUSE  
 FINAL VERSION       AS AMENDED BY THE SENATE

\_\_\_\_\_ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): \_\_\_\_\_

DATE DELIVERED TO SENATE CLERK 8.13.13



BY COMMITTEE AIDE