

CHAPTER 12. FILL SAND AND FILL MATERIAL

§2011. License to dredge; royalties; exemptions

A. No fill sand nor fill material shall be dredged from the water bottoms of this state without a license issued by the Louisiana Department of Wildlife and Fisheries. The license fee shall be set by the commission and shall not exceed one hundred dollars. The department shall act on the license application either favorably or unfavorably within a period of thirty working days.

B.(1) There shall be five classes of license as follows:

(a) Class A shall be applicable to commercial dredging or initial acquisition of fill sand or fill material with the specific intent to offer such fill for resale.

(b) Class B shall be applicable to dredging of fill sand or fill material for commercial purposes other than the specific intent to offer such fill for resale. Such commercial purposes shall include operations related to mineral activities.

(c) Class C shall be applicable to a person dredging or contracting for dredging of fill sand or fill material for private, noncommercial purposes.

(d) Class D shall be applicable to dredging of fill sand or fill material for an activity that has a public benefit, such as but not limited to a coastal conservation or restoration activity, navigation purpose, removal of sediment buildup, or recreational activity.

(e) Class E shall be applicable to all other dredging of fill sand or fill material.

(2) The license shall be valid for one year beginning January first and ending December thirty-first of that same calendar year. The license may be purchased at any time during the year for the current license year and beginning November fifteenth for the immediately following license year. No person with an outstanding violation of this Chapter may purchase a license. At all times, the original license shall be available at the dredge site for inspection by a duly authorized agent of the department.

C. A royalty payment, based on cubic yards or equivalent thereof as determined by the commission of material dredged, shall be made to the department as follows:

(1) Holders of a Class A license shall pay a royalty of twenty-nine cents per cubic yard of material dredged.

(2) Holders of a Class B license shall pay a royalty of twenty-five cents per cubic yard of material dredged.

(3) Holders of a Class C license shall pay a royalty of fifteen cents per cubic yard of material dredged.

(4) Except those exempted under the provisions of Subsection E of this Section, holders of a Class D license shall pay a royalty of five cents per cubic yard of material dredged.

(5) Holders of a Class E license shall pay a royalty of twenty-five cents per cubic yard of material dredged.

D. Only holders of Class A licenses shall be authorized to sell fill sand or fill material dredged. Holders of Class B, C, D, or E licenses shall not sell fill sand or fill material which was dredged or caused to be dredged under authority of those licenses.

E. Any private landowner, state agency, political subdivision, or associated consultant or contractor engaged in a coastal protection, conservation, or restoration activity consistent with an annual plan or the comprehensive master plan established pursuant to R.S. 49:214.5.3 or engaged in an activity to remove sediment buildup to preserve or restore the natural habitat of a water body of the state or to enhance navigation and recreation activities on a water body of the state shall be exempt from payment of the royalties and bond requirements of this Section. However,

any such private landowner, state agency, political subdivision, or associated consultant or contractor shall be required to apply for and receive the appropriate license required by this Section. To be eligible for exemption from the royalty payment and bond requirements of this Section, a private landowner shall obtain a letter of no-objection from either the governing authority of the political subdivision within which the activity will occur or the local coastal management program under which the activity is authorized, and the approval, in writing, of the secretary of the Department of Natural Resources, the secretary of the Department of Transportation and Development, and the executive director of the Coastal Protection and Restoration Authority.

F. Notwithstanding any other provision of law to the contrary, dredging by or on behalf of a port authority or port, harbor, and terminal district shall be exempt from the provisions of this Chapter. However, any port authority or port, harbor, and terminal district or any person engaged on its behalf to perform dredging in its respective jurisdiction shall possess the appropriate federal and state permits which authorize the dredging, and a copy of such permits shall be available at the dredge site for inspection by a duly authorized agent of the department.

G. Any person holding a dredging permit from the department on May 1, 2007, shall be granted a license under the provisions of this Section, with such license to authorize the same activities authorized under the existing permit.

H. The commission shall promulgate rules and regulations implementing the provisions of this Section. Such rules and regulations shall include but not be limited to bond requirements, royalty payment deadlines, royalty auditing procedures, and location of dredging operations and placement of fill sand or fill material.

Acts 1986, No. 845, §1; Acts 1989, 2nd Ex. Sess., No. 6, §5, eff. July 14, 1989; Acts 2005, No. 203, §1; Acts 2007, No. 454, §1; Acts 2016, No. 430, §7.

§2012. Violations and penalties; injunctive relief

A. Violation of any of the provisions of this Chapter, or rules and regulations adopted by the commission pursuant to this Chapter, shall constitute a class three violation with penalties as provided in R.S. 56:33, except that failure to possess a Class C license shall constitute a class one violation with penalties as provided in R.S. 56:31.

B.(1) In addition to the penalties provided in Subsection A of this Section, the commission may assess either or both of the following:

(a) A civil penalty of not more than one thousand dollars for each violation of the provisions of this Chapter or of the rules and regulations adopted by the commission pursuant to this Chapter. Each day on which a violation occurs shall be considered a separate offense.

(b) Damages in an amount not to exceed the estimated fair market value of the fill sand or fill material dredged in violation of this Chapter or the rules and regulations of the commission adopted pursuant to this Chapter.

(2) Penalties and damages may be assessed only by a resolution of the commission after notice to the licensee.

(3) Decisions of the commission may be appealed through an adjudicatory hearing pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

C. The secretary may institute civil proceedings enforcing the rulings of the commission or seeking injunctive relief to restrain and prevent the violation of the provisions of this Chapter, or of the rules and regulations adopted by the commission pursuant to this Chapter, in the Nineteenth Judicial District Court. Acts 1986, No. 845, §1; Acts 2007, No. 454, §1.

§2013. Revocation of licenses

A. The department may revoke or suspend any license issued under the provisions of this Chapter upon a determination by the department that the holder of the license has violated the provisions of this Chapter or the rules and regulations of the commission; however, the licensee shall be entitled to an appeal from his revocation or suspension through an adjudicatory hearing pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

B. The department shall notify each person whose license has been revoked or suspended, by certified mail, return receipt requested.

C. Each person whose license has been revoked or suspended shall return the license to the commission within fifteen days of the date on which the notice of revocation or suspension was received.

Acts 1986, No. 845, §1; Acts 2007, No. 454, §1.

§2014. Emergency cease and desist orders

Upon a determination that any person, firm, or corporation is dredging fill sand or fill material without a valid license from the department, the secretary may issue an emergency cease and desist order. The issuance of such an emergency cease and desist order shall not be subject to the limitations and formalities relating to notice and hearings imposed with regard to adjudications under R.S. 49:950 et seq., but shall be subject to all other applicable provisions of law. The emergency cease and desist order shall remain in force until a hearing can be held concerning the situation which prompted the emergency order, but in no event shall such an emergency order remain in force longer than fifteen days.

Acts 1986, No. 845, §1; Acts 2007, No. 454, §1.

§2015. Mandamus to compel issuance of license

Any person who is denied a license by the department may institute legal proceedings against the department in the Nineteenth Judicial District Court. If the court finds that the license should have been issued, the court may issue a writ of mandamus to compel the department to issue the license.

Acts 1986, No. 845, §1; Acts 1993, No. 159, §1; Acts 2007, No. 454, §1.