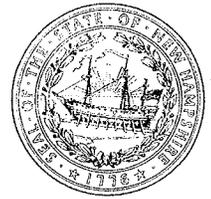




January 13, 2011

The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

The Honorable Bob Odell
Energy and Natural Resources Committee
Legislative Office Building, Room 102
Concord, NH 03301

RE: SB 19 relative to the definition of prime wetlands

Dear Senator Odell:

Thank you for the opportunity to comment on SB 19, which would amend RSA 482-A:15, I by modifying the definition of prime wetlands and the criteria for designation of wetlands as prime. SB 19 proposes to narrow the statutory criteria under which municipalities may designate prime wetlands. The Department of Environmental Services (DES) does not have a position SB 19, but has one suggested clarification to the bill language to make clear the applicability of the proposed new criteria relating to municipalities with existing designated prime wetlands that have already been accepted by DES.

RSA 482-A:15 provides authority to municipalities to “undertake to designate, map, and document prime wetlands”, provides a definition of prime wetlands for this purpose, establishes procedures for local approval of prime wetlands designations and establishes procedures for acceptance of these designations by DES. DES has existing rules adopted pursuant to RSA 482-A:15 that provide municipalities with guidance on the form, criteria and methods for municipalities to implement a local prime wetlands program and receive acceptance by DES. Thirty-one communities currently have designated prime wetlands that have been accepted by DES through this process.

SB 19 proposes to amend RSA 482-A:15 in two ways. First, it proposes to add “very poorly drained soils” as another value that could be applied to make wetlands “of substantial significance”, thus qualifying wetlands for status as prime wetlands. SB 19 also proposes a minimum area threshold of 5 acres that must be attained for designation as prime by municipalities, where no minimum threshold currently exists in statute. The bill would have no impact on the procedures under which proposed designations are reviewed and accepted by DES. However, it would potentially reduce the number of applications that DES would be required to review under the statutory criteria for evaluating prime wetlands impacts in RSA 482-A:11, IV by reducing the potential number and extent of new prime wetlands.

DES believes that the prime wetlands designations by the 31 municipalities with programs already accepted by DES would not be affected by SB 19. However, it may be prudent to have language added to the bill to make it clear that it applies to wetlands that are designated as prime wetlands after the effective date of the bill and that previously approved prime wetlands designations would remain valid after the enactment of the legislation.

Thank you for the opportunity to comment on this legislation. If you have any questions or need additional information, please do not hesitate to call Collis Adams at 271-4054 or me at 271-2958.

Sincerely,

Thomas S. Burack
Commissioner

cc: Senator Rausch