



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

January 10, 2017

The Honorable Kevin Avard
Chair, Energy and Natural Resources Committee
State House, Room 103
Concord, NH 03301

RE: SB30, An act defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act.

Dear Chair Avard and Members of the Committee:

Thank you for the opportunity to testify on SB30. This bill would modify the current vegetated buffer standards in a manner intended to improve the distribution of trees and saplings in the waterfront buffer, more clearly state the current requirement for the maintenance of a natural woodland buffer, redefine which projects are exempt from application fees, and bring the time frames for response to a Request for More Information and the subsequent processing of information received so as to correspond with the timeframes for response established for other Land Resource Management Programs. The New Hampshire Department of Environmental Services (NHDES) supports the proposed changes with the exception that Paragraph 7 amending RSA 483-B:9, V(a)(2)(D)(iv) should begin "(iv) If the total tree and sapling score in any ~~50~~ 25 foot by 50 foot segment exceeds ~~50~~ 25 points..."

The modifications to the vegetation maintenance requirements within the waterfront buffer are meant to result in a more even distribution of trees and saplings across waterfronts. It was not intended for this legislation to increase the amount of vegetation required. If the language of Paragraph 7 of the legislation is not modified to that shown at the end of the paragraph above, then the amount of trees and saplings landowners are required to maintain in the waterfront buffer would be doubled.

The proposed changes to the language relative to the definition of natural woodland buffer, woodland buffer, and the maintenance of a vegetated buffer between 50 and 150 feet from the reference line do not change the current buffer standards but rather more clearly articulate what the current standard requires.

The changes relative to the timeframes for response to a Request for More Information and the subsequent processing of information received after such a request will bring Shoreland permitting procedure timeframes in line with those established within the Wetlands Impact Application process. Bringing the timeframes for steps within these two permitting processes into agreement will facilitate the integration of the processes in the future.

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Finally, this legislation would redefine which projects are exempt from Shoreland application fees. Currently public roads, public utility lines and associated structures and facilities, and public water access facilities are exempt from the application fees. The proposed changes would extend the fee exemption to all projects that are funded solely through public funds. These are projects that can all be reasonably expected to have some public benefit, but are unlikely to profit any particular private interest. The proposed changes also remove the fee exemption for public utilities. While it can be argued that these projects have some public benefit, the fee exemption benefits a very limited private interest group. NHDES is unable to identify any justification for continued fee exemption for these projects.

Thank you again for the opportunity to comment on SB30. Should you have further questions or need additional information, please feel free to contact either Rene Pelletier, Assistant Director, Water Division (Rene.Pelletier@des.nh.gov, 271-2951) or Darlene Forst, Shoreland Section Supervisor, Land Resource Management Programs (Darlene.Forst@des.nh.gov, 271-4067).

Sincerely,

Clark B. Freise
Acting Commissioner

cc: Sponsors of SB30: Senator Bradley