

MY COMMENTS PROVIDED AT THE DECEMBER 6, 2018 WETLANDS PROPOSED RULES FORMAL RULEMAKING PUBLIC HEARTING AT THE LACONIA CITY HALL, 6:30 PM.

Good evening

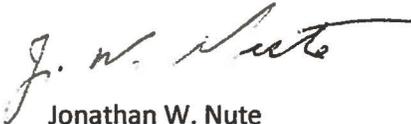
December 6, 2018

What a mess! Your revisions look like you had an Antioch intern do this for their summer project. You have received more than 2,000 public comments and you still don't get it.

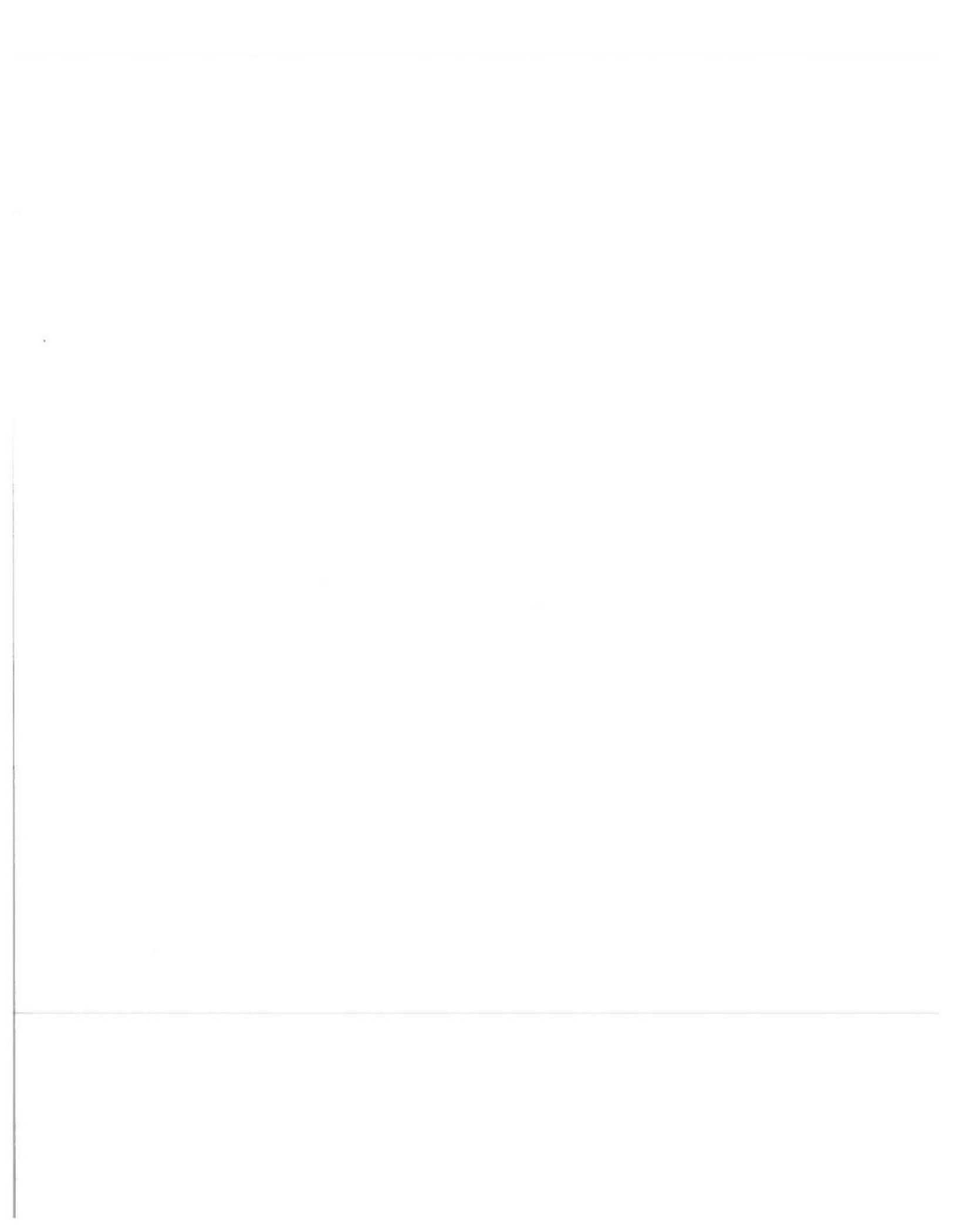
I am a small woodlot owner and have done a number of timber harvests, 3 of which involved submitting a Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact, along with the also required NH Natural Heritage Bureau data check. This is an easy, efficient process that used common sense Best Management Practices to meet my goals as well as protect the forest watershed environment. Recent UNH research reviewing the use of these BMPs has shown that they have been universally embraced in forest harvests and are almost 100% effective in protecting water quality. This notification process is also an efficient and effective use of your staff administrative and enforcement work load.

This letter will be short, but I urge you to take to heart the February and March letters submitted to you by the NH Timberland Owners Association, Innovative Natural Resource Solutions and award winning Tree Farmer Tom Chrisenton referenced on your WEB site. Please keep the separate permitting process for forestry and the BMPs, and keep them in pretty much their existing content.

Since 2014, I have been following this revision process, and have been frustrated with the results. All I can say is that I won't be going to Six Flags this summer because you have already given me too many ups and downs!



Jonathan W. Nute
19 Governors Road
Milton, NH 03851



North Country Procurement Inc.

From: Jasen Stock <jstock@nhtoa.org>
Sent: Tuesday, December 04, 2018 3:21 PM
To: Jasen Stock
Subject: 2018 NHTOA legislative/policy update

This is a legislative/policy update from the New Hampshire Timberland Owners Association (NHTOA). I provide this update periodically when issues of importance to our membership arise (almost weekly during the legislative session) as a way to keep NHTOA members informed of what is happening in Concord.

If you do not wish to receive this update please let me know and I will remove you from the distribution list.

NHDES Wetland Rules

Yesterday was the first public hearing for the N.H. Department of Environmental Services' (NHDES) proposed changes to the state's wetland rules. These rules govern any activity impacting a wetland or surface water. This includes wetland crossings on forestry operations (e.g. pole fords, corduroy placement, culvert installation, etc.) and stream crossings for truck roads or skid trails. Because wetlands are so common in New Hampshire, many timber sales will encounter them and therefore need to comply with these rules. A poorly constructed rule will negatively impact the economic viability of a timber sale (e.g. high permit fees, requiring expensive permit structures, etc.) or restrict/eliminate physical access to a woodlot (e.g. prohibit certain wetland crossings, etc.), so the NHTOA is actively engaged in this rulemaking process.

Yesterday's public hearing was well attended, with forestry professionals and timberland owners emphasizing the need for simple regulations that won't add administrative or regulatory burdens to timberland owners and timberland management. I encourage our membership to attend one of the upcoming hearings (listed below) to emphasize these points, and I've attached a copy of our general talking points to this email – please feel free to incorporate these into your comments. Here is a link to the NHDES website for the rulemaking:

<https://www.des.nh.gov/organization/divisions/water/wetlands/process-improvement.htm>

If you are unable to attend a hearing, NHDES is accepting written comments until January 19th. They should be addressed to:

Mary Ann Tilton, Wetlands Bureau Assistant Administrator
N.H. Dept. of Environmental Services
29 Hazen Drive; P.O. Box 95
Concord, NH 03302-0095

Public hearing dates and locations

- **Tuesday, Dec. 4, 2018:** Keene Parks and Recreation Center, 312 Washington St., Keene, N.H. **6:00 - 8:00 p.m.**
- **Thursday, Dec. 6, 2018:** Laconia City Hall, 45 Beacon St. East, Laconia, N.H. **6:30 - 8:30 p.m.**
- **Tuesday, Dec. 11, 2018:** North Country Resource Center, 629B Main St., Lancaster, N.H. **5:30 - 7:30 p.m.**
- **Thursday, Dec. 13, 2018:** NHDES Pease Field Office, Room A, 222 International Dr., Suite 175, Portsmouth, N.H. **2:00 - 4:00 p.m.**

- **Thursday, Dec. 13, 2018:** NHDES Pease Field Office, Room A, 222 International Dr., Suite 175, Portsmouth, N.H. **6:30 - 8:30 p.m.**

Current Use Rule Update and Assessment Rate Hearings

Annually, the New Hampshire Current Use Board (CUB) sets the Current Use assessment rates for forestland and forestland with documented stewardship. Using a complex cash flow model, the CUB is proposing a modest increase for the 2019 assessment rates:

- 0.4 percent increase for White Pine acreage;
- 6.3 percent increase for Hardwood (Red Oak, Sugar Maple, Yellow and White Birch) acreage; and
- 2.5 percent increase for acreages growing “all other.”

The Current Use Board will host a series of public forums to receive comments and feedback on the proposed assessment rates. Also, being considered at the forum are several proposed changes to the Current Use assessment rules. Specifically, the CUB recommends a number of changes to clarify definitions (e.g. agricultural structure, etc.) and mapping requirements. The proposed changes can be viewed at the NHTOA website at <https://nhtoa.org/news-and-events/news/164-current-use-board-proposes-new-assessment-fees-rules-hearings-scheduled.html>

The public forums will be held on the following dates at the locations listed below:

- **Monday, December 10, 2018:** Lancaster Town Hall Auditorium. **6:00 p.m.**
- **Wednesday, December 12, 2018:** Keene Parks and Recreation, 2nd Floor - Room 21. **6:00 p.m.**
- **Friday, December 14, 2018:** DRA - Training Room, Concord, N.H. **9:30 a.m.**

2019 Legislature

Following last month’s election, the composition of the N.H. House of Representatives and Senate underwent a dramatic change. Already, the newly elected Senators and House members have been busy filing bill proposals. Although the House filing period has closed, it appears the Senate filing period will continue until mid-December. To date, 703 Legislative Service Requests (LSRs, precursors to bills) have been made. From that body of LSRs, the NHTOA has identified 47, based on their title and a brief description, that will be of interest to our membership. Also, this next year is a budget year where fiscal priorities and, many times, new policy priorities get introduced. Short answer – it will be a busy year for us.

Jasen

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November 28, 2018 --- N.H. Wetlands Rule Update

Call to Action – Attend a hearing and submit comments.

Background

Hearings start next week on the N.H. Department of Environmental Services' (NHDES) proposed changes to the state's wetland rules. These rules govern dredging, filling, docks, and wetland delineation for all inland and coastal wetlands and water bodies. Because of the prevalence of surface waters (e.g. streams and brooks) and wetlands (e.g. forested wetlands, bogs, and intermittent streams) in the state's forests, these rules have the potential to impact most New Hampshire forestry operations.

Since the initial release of these rules in January, NHDES has made some significant improvements but there are still a number of problem areas for forestry operations.

Process/Timing

It is important that forestry interests and concerns are heard at the upcoming public hearings NHDES has scheduled. Here is a list of the hearing dates and locations:

Dec. 3, 2 p.m. – 4 p.m., NHDES office, 29 Hazen Dr., Concord, N.H.

Dec. 3, 6 p.m. – 8 p.m., NHDES office, 29 Hazen Dr., Concord, N.H.

Dec. 4, 6 p.m. – 8 p.m., Keene Parks and Rec. Dept., 312 Washington Street, Keene, N.H.

Dec. 6, 6:30 p.m. – 8:30 p.m., Laconia City Hall, 45 Beacon Street East, Laconia, N.H.

Dec. 11, 5:30 p.m. – 7:30 p.m., North Country Resource Center, 629B Main Street, Lancaster, N.H.

Dec. 13, 2 p.m. – 4 p.m., NHDES Pease Field Office, Room A, 222 International Drive, Suite 175, Portsmouth, N.H.

Dec. 13, 6:30 p.m. – 8:30 p.m., NHDES Pease Field Office, Room A, 222 International Drive, Suite 175, Portsmouth, N.H.

If you are unable to attend a hearing, the NHDES will also accept written comments from the public until January 18, 2019. All comments should be addressed to:

Mary Ann Tilton, Wetlands Bureau Assistant Administrator
N.H. Dept. of Environmental Services
29 Hazen Drive; P.O. Box 95
Concord, NH 03302-0095

Here is a link to the NHDES website for the rulemaking:

<https://www.des.nh.gov/organization/divisions/water/wetlands/process-improvement.htm>

General comments

Here are some general comments to make at the hearings.

Forest management section -- lack of clarity

Establish a forest management section in these rules. Forest management regulation is interspersed with all other forms of land-use regulations, making these rules difficult to navigate. There are forest management regulatory citations that cross-reference other portions of the rules two and sometimes even three times. Establishing a forest management section will remove

some of these cross-references and add clarity. Moreover, we believe an easier to understand rule will foster better compliance and make enforcement easier.

Corduroy and BMPs

Clarify that corduroy is not “fill.” Corduroy use (logs, limbs, or branches placed in wet areas to support logging equipment) is a common Best Management Practice (BMP). Unfortunately, these rules define corduroy as “fill.” Because these rules prohibit the placement of “fill” in certain wetland areas (many of these areas are currently under timber management), this definitional shift will raise the permit status or, worse yet, take many acres out of timber production.

Assess the impacts

Quantify the economic and management impacts. The proposed rules create new regulatory categories. In many cases these new categories have more onerous permit requirements (e.g. flood plain forests now have higher permit criteria) or prohibit certain activities outright (no pole fords in cold water fisheries). NHDES needs to demonstrate the acreage impacted and why additional forest management regulations are needed.

Increasing the permit status for summer timber sales in floodplain forestland is a huge change. Operating in dry conditions and using corduroy for an occasional wet area in these forests is common today and does not require a permit. The proposed change will mean land managers doing summer work in these forests will now have to:

- Identify any wetland in a floodplain area;
- File a permit for any crossings (including corduroy placed in wet areas)
 - Hope a Natural Heritage check of the site does not reveal any rare/threatened or endangered species in the area, since “fill” in a “priority resource area” is prohibited under 307.11(k) unless authorization is granted.

Don't shift the administrative burden and specify an approval timeline

Don't shift additional administrative burdens on to the land managers. Define timelines.

1. The new rules would require land managers to provide copies of permit submittals to town clerks. Why do they need a copy of the entire application? Is there an expectation they can comment on it? This requirement can be replaced with one stating that the town will receive the same electronic notice the applicant receives.
2. The applicant will now be required to affirm the project is not in a Priority Resource Area (PRA). This is inappropriate for forestry projects, as communication regarding the Natural Heritage data check (NHB) for forest management projects is confidential; requiring a notice if the project is in a PRA breaks this confidentiality.
3. Applicants must now file a “confirmation of completion” notice. Because forest management projects, especially those on large tracts, can go multiple years, this requirement is not appropriate.
4. The new rules require the land manager to wait for the NHDES to post the “approval” on the website. It is open-ended; we need a time commitment on this.