

Derry Conservation Commission

Derry Municipal Center, Room 207
14 Manning Street
Derry, NH 03038

January 17, 2019

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

Subject: Comments on Proposed Draft Wetlands Rules, NH Env-Wt 100-900

Dear Ms. Tilton,

We understand that the above-referenced rules were drafted in an attempt to streamline the process for dredge and fill applications, and to balance wetlands protection and development and that your department engaged in a lengthy process with various stakeholders towards accomplishing that goal. However, we are very concerned that conservation commissions across the state are being left out of the wetlands permitting process for the myriad of new categories of projects which are being proposed in the new rules, including permit-by-notification (PBN), lower scrutiny approval permits (LSA), and expedited permits (EXP).

The Derry Conservation Commission offers the following constructive comments to improve the proposed wetlands rules:

- Provide opportunities for conservation commissions to review (and intervene) on not only the standard minor and major project wetland permit applications, but also PBN, LSA and EXP.
- Require notification of the town (and specifically the conservation commission) of all types of wetland permit applications.
- Require the notification of abutters for all types of permit applications. This is a serious omission in the current set of proposed rules.
- Extend permit approval times for short issuance periods of 5 days for a PBN to at least 15 business days to afford the conservation commission time to make a preliminary review of applications and determine whether to intervene after notification.
- Simplify the layout and structure of the proposed rules to make the requirements clear and concise so they can be understood by all parties who will be using them, including but not limited to the Department, applicants, consultants and conservation commissions.
- Revise the definition of "Priority Resource Area" to ensure, at a minimum, that it includes marshes of one-acre or larger, and the Exemplary Natural Communities identified in the NH Wildlife Action Plan (WAP), and Prime Wetlands.

- Include all areas designated as Tier 1 or 2 terrestrial and aquatic habitat as defined and mapped in the WAP as “Priority Resource Areas”
- Remove the following projects from the proposed list of new PBN:
 1. Aquatic Vegetation Removal
 2. Bank Stabilization
 3. Bridge and Culvert Replacement
 4. Board Walk Construction
 5. Residential Access (3-lot subdivisions)
 6. Commercial Access

- Require the PBN application to include a recommendation from the local Conservation Commission, and if the applicant chooses to proceed without this, extend the approval timeline to 30 days
- Provide a mechanism, (such as the DES Eco-Link) for conservation commissions to be notified when PBN applications are submitted that lack a conservation commission recommendation. Asking conservation commissions to check One-Stop on a daily basis is unworkable.
- Set a minimum standard of accuracy in the rules for GIS mapping that is to be utilized for wetlands boundary delineations
- Set strict linear, volumetric or time duration limits on the extent of disturbance allowable for each and every one of the PBN project type

Conservation Commissioners are the local “eyes and ears” of DES, and care deeply about the wetlands in their town. They also possess a great deal of local knowledge that can be of benefit to evaluate potential impacts from proposed projects. Proposed development impacting wetlands can also have a detrimental impact on wetland functions and values which affect public health and safety, such as flood storage and water quality. The Derry Conservation Commission meets a minimum of twice a month and is committed to conducting a site visit for every project application that it reviews.

Thank you for the opportunity to comment on the proposed rules. We look forward to continued engagement in the rule-making process, to include working with our legislators, the conservation community, and during review of the rules by the Joint Legislative Committee on Administrative Rules.

Respectfully,

A handwritten signature in black ink, appearing to read 'R. Buzzanga'.

Riccardo Buzzanga
Vice-Chairman
Derry Conservation Commission