

Dear Mary Ann,

Please accept these as my own personal comments on the Draft Wetlands Rules.

I have made the protection of the environment my life's work for the past 39 years, and have worked for the State of NH full-time as an Environmentalist for 27 years.

I joined the Derry Conservation Commission back in 1991 when I first moved to NH and except for a short break of a few years to raise a child, I have actively served to the present.

Certainly I have been among the many who have followed all the changes in the NH Wetlands Rules over the years, and watched the pendulum swing both ways -- some

groups wanted to see them become stricter, and others complained and wanted them to become much less restrictive. I realize that you, the Department, and your stakeholder groups have worked tirelessly to meet the needs of those who wanted the wetlands rules to be less restrictive, and put in many hours of effort with the use of LEAN business practices. I applaud the development of Best Management Practice

manuals as a step in the right direction, but I can't help wondering if they will be utilized as intended; and if they will even get used by some applicants, at all.

At this juncture, count me among those who feel these new draft wetlands rules have gone too far in the direction of "less restrictive", largely in order to appease the interests of the development/construction community and consultants.

First and foremost, I feel compelled to urge the Department to include the requirement of all applicants to notify the Conservation Commission of ALL permit applications, not just those for minor (standard) and major projects.

A requirement for abutter notification should also be included for all permit categories, including PBNs, LSAs and EXP permits.

I also recommend that the Department reconsider and re-examine the fully flexible categories of new PBNs, LSAs and EXP permit types that are referenced in these rules.

What is needed most of all in this set of rules is "field verification" of projects. While the referenced requirements to utilize Best Management Practice manuals would indeed be helpful, site visits (on the ground) to ensure proper implementation is vitally needed. This is where the Conservation Commissions can be most useful as the "eyes and ears" of DES. They are very dedicated, knowledgeable volunteers who put in many hours working on the front lines of wetlands protection each and every day, and their value should not be overlooked. Since the Department's Wetlands Bureau lacks the staff to make such visits, the Conservation Commissions can assist the Department in this role. The Department should also consider (like was done for Alteration of Terrain rules) setting threshold limits for the maximum allowed wetlands impacts, not only on the same piece of property, but in the same sub-watershed, and watershed as a whole. It is my These draft wetlands rules allow up to 3,000 square feet of wetlands filling as a "minimum impact" project. The potential cumulative impacts of allowing this practice to occur over and over in the same sub-watershed and watershed will likely be extremely detrimental to many wetlands functions (especially flood storage), and must be seriously considered. Also, once a project has been completed, the Department should require the Applicant to notify them and submit project photographs that demonstrate that Best Management Practices were indeed implemented. Enforcement for violations of these rules is also critical, so the Department should include penalties as appropriate.

Lastly I would like to offer the following recommendations to improve these 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

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

Respectfully,

Eileen F. Chabot, MPH