

January 18, 2018

Attention: Mary Ann Tilton, Assistant Administrator
Wetlands Bureau, NHDES
C/o MaryAnn.Tilton@des.nh.gov

Re: Wetlands Rule Comments

Wetlands Bureau Administrators:

As we understand the proposed we continue to have concerns that permitting for agricultural use is still too burdensome for non-development working lands uses but Farm Bureau does support the streamlined permitting proposed for agricultural projects and associated access via Permit-by-Notification. We believe current notice requirement do little for the resource. The streamlined process will save everyone involved time and some money and should increase compliance.

We also support the option in the rule proposal of working either through the USDA Natural Resource Conservation Service (NRCS) or a certified wetland scientist for project planning. As we have asserted to you in the past, for numerous reasons there are farmers who prefer working with a private consultant. Included amongst the reasons is project timing. NRCS does not always have available technical support staff to provide timely service.

Another reason, due to federal specification requirements, is cost. Too often projects end up going beyond what farmers want and even need. This leads to our concern and opposition to the Best Management Wetlands Practices for Agriculture document being incorporated by reference (Env-Wt 522.04 (a), Env-Wt 522.05 (a), Env-Wt 522.06 (a)(2)a & (5) in the rule the way it is currently written - with NRCS standards needing to be met by those working with a certified wetland scientist. The NRCS standards were written for and apply to farmers receiving federal cost-share money for NRCS projects. Farmers not undertaking a project through the federal system cannot be expected to pay for these standards and should not be required to meet these specifications. The option the proposed rule provides by enabling farmers to work with a certified wetland scientist is essentially taken away by including requirements that NRCS specifications be followed in the BMWP.

We also found – particularly in the newly added *Nutrient Management* section - it appears this section was taken directly from an NRCS manual and not fully adapted to the NH BMWP. Examples of this include:

- The use of the word “land-grant university guidance” where UNH should be used or at least included, such as “UNH or other relevant land-grant university guidance.
- “State code” should read “NH law” (pg.139)
- “NI-190-302”? (pg. 141)
- Written approval to deviate must be obtained by the Chief of NRCS? (pg.142)

We urge you to take another look at this document with the NH Department of Agriculture and others and add that we lament that as currently written the document reads more prescriptive and less as a guidance manual – which is what it was originally written to be. We do not view this as a positive step.

To help cut down on confusion, we urge references to the *Best Management Wetlands Practices for Agriculture* document be abbreviated as “BMWPs” in the rule. Most every farmer, when hearing or reading the abbreviation BMPs thinks of the BMP manual for the handling of agricultural compost, fertilizers, and manure.

As we understand it the bureau has been interpreting “continued agricultural use” in the rule as a 5 year period for some time now. Generally, we do not have an issue with this interpretation but prefer the existing definition as it provides some flexibility. We propose the following definition:

Env-Wt 102.32 “Continued agricultural use” means that a wetland has been ~~used~~ ***managed or otherwise maintained*** as cropland or pasture ***for agricultural purposes for a period of 5 years*** with sufficient frequency, and sufficient recentness, ***such*** that the land has not reverted to a scrub-shrub wetland, emergent marsh, or forested wetland

We support adding the practice of “silvopasture” to the definition of cropland and including “plant fiber” as follows:

Env-Wt 102.35 “Cropland” means land that is used to grow plant species adapted for harvest, alone or in rotation with grasses and legumes. The term includes areas dedicated to vegetables, grain, hay, pasture (***including silvopasture***), fodder, sod, nursery stock, orchards, ***plant fiber***, and similar products.

Silvopasture is an agro forestry practice intentionally combining timber, livestock, and forage production. More information on agro forestry and the practice of silvopasture can be found through the USDA National Agroforestry Center.

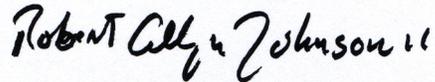
We understand from statements made at the public hearings in December that it is the intention of the bureau to clarify that corduroy placement on logging trails is not fill. We support this clarification. It is a sound and useful practice supported by the *NH BMP for Erosion Control on Timber Harvesting Operations*:

After harvesting, remove temporary crossings. If crossing is composed of brush or corduroy, it may be best to leave the crossing in to decompose rather than pulling it out—creating more of an impact on the wetland (pg. 69)

We do not support or see the need for imposing limits as to the length of corduroy placement.

As always we thank you for your time and attention to our concerns and suggestions.

Sincerely,

A handwritten signature in black ink that reads "Robert Allen Johnson II". The signature is written in a cursive style with a double underline at the end.

Robert Johnson, II, Policy Director

***New Hampshire Farm Bureau (NHFB)** is a non-profit federation, established in 1916, of New Hampshire's 10 county Farm Bureau organizations which consist of nearly 2,000 NH farm families and over 1,000 supporting members. NHFB is dedicated to advocating for and educating the public about agriculture. NHFB is a general farm organization where the members establish policy and direction through a member driven policy development process.*