

High Ridge Tree Farm

1999 New Hampshire Outstanding Tree Farmers

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Ms. Mary Ann Tilton, Administrator
NH Department of Environmental Services
Water Division, Wetlands Bureau
29 Hazen Drive, PO Box 95
Comcord, N 03302-0095

RE: Proposed forestry wetlands rule change

Dear Administrator Tilton,

Below are my comments as a forest land producer who is part of the long traditional and beneficial use of Forestry as recognized by the State of New Hampshire.

Productive forest land in NH provides the best land use with respect to water quality of any other land use and every effort should be made to retain our forest land and not to have it be converted to other land users from a water quality stand point.

The National Clean Water Act recognized this, by exempting forestry, which follows recognized BMPs. I have included the following which was issued by the USEPA on October 18, 2018:

Exemptions to Permit Requirements



In general, Section 404 of the Clean Water Act requires permits for the discharge of dredged or fill material into waters of the United States, including wetlands. However, certain activities are exempt from permit requirements under Section 404(f)(1).

Activities Exempt under the Clean Water Act, Section 404(f)(1)

Established (ongoing) farming, ranching, and silviculture activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices

Maintenance (but not construction) of drainage ditches

Construction and maintenance of irrigation ditches

Construction and maintenance of farm or stock ponds

Construction and maintenance of farm and forest roads, in accordance with best management practices

Maintenance of structures such as dams, dikes, and levees

Exemptions

You do *not* generally need a permit under Section 404 if your discharges of dredged or fill material are associated with normal farming, ranching, or silviculture activities such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products or upland soil and water conservation practices. This exemption pertains to "normal farming" and harvesting activities that are part of an established, ongoing farming or forestry operation.

Activities Not Exempt

If an activity listed above as exempt represents a *new use* of the water, and the activity would result in a *reduction in reach or impairment of flow or circulation* of regulated waters, including wetlands, the activity is *not* exempt. Both conditions must be met in order for the activity to be considered non- exempt. In general, any discharge of dredged or fill material associated with an activity that converts a wetland to upland is not exempt and requires a Section 404 permit.

Examples

Activities that bring a wetland into farm production where the wetland has not previously been used for farming are not considered part of an established operation, and therefore *require a permit* .

Introduction of a new cultivation technique such as discing between crop rows for weed control may be a new farming activity, but because the farm operation is ongoing, the activity is *exempt* from permit requirements under Section 404.

Planting different crops as part of an established rotation, such as soybeans to rice, is *exempt*.

Discharges associated with ongoing rotations of rice and crawfish production are *exempt*. To find out whether specific activities are exempt, contact your local Corps District office or EPA regional office.

LAST UPDATED ON OCTOBER 18, 2018

We in NH have worked very hard developing forestland BMPs which are now in place. Forestry should be recognized as protecting the state's water quality by having a specific exemption in the rules which allow this beneficial use to continue.

I'm in support of the changes in the rules set forth by the New Hampshire Timberland Owners in furtherance of these points.

Thank you for the opportunity to comment on these rules,

Thomas Chrisenton