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Programs Manager

Jen Drociak

Watershed Coordinator

Mariah Mitchell

Programs Assistant

N.H. Rivers Management and Protection Program

N.H. Rivers Management Advisory Committee

DRAFT

January 16, 2019

Mary Ann Tilton

NH Department of Environmental Services

29 Hazen Drive

Concord, NH 03302

RE: Proposed Wetlands rules Env-Wt 100-900

Dear Ms. Tilton:

The Rivers Management Advisory Committee (RMAC) appreciates the opportunity to comment on the changes to the Wetlands rules, Env-Wt 100-900, as written in the Initial Proposal dated September 20, 2018. This letter reflects the RMAC's additional findings and recommendations to the proposed rules.

The proposed rules relative to Permit by Notifications (PBNs) add eleven additional projects to those that qualify for a PBN. These additional eleven projects currently require either an expedited or a standard permit, with the result that NHDES staff has 30 to 55 days to review them and local river advisory management committees (LACs) and conservation commissions also have time to review them. The change in qualification level to PBN eliminates the LACs' ability to fulfill their statutory duty "To consider and comment on any federal, state, or local government plans to approve, license, fund, or construct facilities or applications for permits, certificates, or licenses, that may alter the resource values and characteristics for which the river or segment is designated" [RSA 483:8-a III(b)].

The proposed rules relative to PBNs eliminate local conservation commission review, eliminate abutter notification, and reduce review time from ten days to five. This would marginalize LACs as well as conservation commissions by omitting their local expertise and "voice" from the permit review process, as five days is insufficient time for the LAC to assemble a quorum of members to consider and comment on an application under the right-to-know law, RSA 91-A. More specifically, LACs and conservation commissions would no longer have the opportunity to review and provide "on-the-ground" verification of information that a desktop GIS-review may not accurately reflect. Notification to conservation commissions and LACs also provides tremendous value should either entity receive a complaint about the project or an issue that the project is creating.

Individual LAC members are nominated by municipalities in order to evaluate projects with the potential to impact designated rivers and advise NHDES on permit applications. For this reason and those stated above, the RMAC objects to the exclusion of local conservation commissions and LACs from the review process of PBNs.

Additional recommendations of the RMAC include:

1. PBNs should require a signed statement by the applicant certifying that the LAC and conservation commission have been notified. Again, LACs and conservation commissions can assist NHDES with verification of information to ensure the applicant has provided accurate information.
2. PBNs should allow for a review time of 10 days instead of five. With proper planning, 10 days is a reasonable amount of time to expect a permit review, especially for minimum impact projects. Administrative completeness can be provided within five days.
3. NHDES should remove the following projects from the list of additional projects that would qualify for a PBN:
 - Aquatic Vegetation Removal.
 - Bank Stabilization.
 - Boardwalk Construction.
 - Residential Access.
 - Commercial Access.
 - Culvert Inlet / Outlet Maintenance.

Historically, conservation commissions and LACs have provided input relative to these types of projects and in many cases have helped to minimize wetland impacts. The RMAC believes these projects warrant a more complete review than possible through a five day PBN process.

The RMAC is a legislatively created body charged to work with the New Hampshire Department of Environmental Services (NHDES) to administer RSA 483, the Rivers Management and Protection Program. The Governor and Council appointed Committee is composed of representatives from business, agriculture, hydroelectric, municipal government, water supply, conservation, recreation, fish and game, and historical interests. Among its responsibilities, the RMAC is charged with advising the NHDES commissioner, state agencies, and the general court on activities relevant to the implementation of the Program.

Thank you for the opportunity to comment.

Should you have any questions regarding our recommendations, please feel free to contact me at 603.796.2615 or MLT@naturesource.net.

Sincerely,



Michele L. Tremblay
Chair