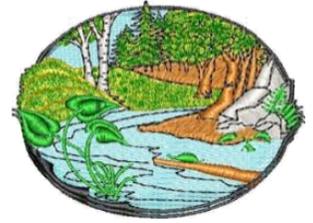


New Hampshire Association of Natural Resource Scientists
*Post Office Box 110 * Concord, NH 03302-0110*



March 13, 2023

Kenneth Weyler, Chair
House Finance Committee
NH State House
107 North Main Street
Concord, NH 03301

Re: House Bill 2, Section 453

Dear Members of the House Finance Committee:

The NH Association of Natural Resource Scientists (NHANRS) is a state-wide non-profit professional organization whose membership includes wetland scientists, soil scientists and wildlife biologists from the professional consulting community and from the state's academic and public sectors.

Our Legislative Committee has reviewed House Bill 2, specifically as it pertains to the regulation of Natural Scientists (Section 453). **NHANRS strongly opposes Section 453 of House Bill 2.** This section would repeal the functions of the Board of Natural Scientists and the certifications it oversees, including the New Hampshire Certified Wetland Scientist (CWS) and the New Hampshire Certified Soil Scientist (CSS). We can support reorganization and merging with another relevant board(s) if it will streamline the certification process and make it easier to maintain, provided the standards for becoming a CWS or CSS are not lowered, and there is wetland/soil scientist representation on that board.

We offer the following information to the Committee to understand why it is critically important to retain the New Hampshire certification process for Certified Wetland and Soil Scientists:

- Today, there are over 180 practicing New Hampshire Certified Wetland Scientists, as well as many who are currently working with these professionals in practice to become certified. NH Certified Wetland and Soil Scientists serve as liaisons between developers and local, state, and federal government officials, facilitating the permitting processes with these entities.
- NH Certified Wetland (CWS) and Soil Scientists (CSS) assist local, state, and federal agencies in balancing wise growth and development, environmental protection, and the rights of private property owners. CWS's and CSS's assist these entities by providing technical expertise, which is founded in scientific principles. This technical expertise not only includes determining the boundary between developable and undevelopable lands, it also includes assessing wetlands to determine their overall functions and values. It is through these wetland assessments that growth and environmental protection are balanced.
- Local, state, and federal agencies depend on CWS and CSS expertise and knowledge of the sciences to assist them in making objective, scientifically-based planning and land development decisions. Most municipal ordinances require developers to demonstrate they have coordinated with a CWS and/or CSS by providing engineered plans that include their professional stamp.
- The 2019 Audit Report of the DES Wetlands Bureau stressed the importance of DES Wetlands Bureau staff holding professional credentials (i.e., CWS) and raised concerns about having uncredentialed employees performing the duties of certified professionals.

- According to the current Chair of the Board of Natural Scientists, they receive approximately two to three complaints per year regarding the conduct of NH Certified Wetland and Soil Scientists. This low number is the result of adequate training and field experience for CWS/CSS to perform effectively, as well as a strong code of ethics, due to biennial continuing education requirements.
- NH Certified Wetland Scientists undergo extensive field training with real time experience in identifying wetlands and hydric soils in some of the most diverse and difficult wetlands found in New England.
- NH Certified Wetland Scientists are integral in maintaining New Hampshire's unique relationship with U.S. Army Corps of Engineers and the Programmatic General Permit process. Without this relationship, greater oversight would be required from federal agencies that will result in much longer permitting times and higher costs to developers and private landowners.
- Universities and other schools produce students from varying disciplines who graduate with the credit hours necessary to become a CWS or CSS. However, entry-level and most mid-level environmental job opportunities in the private and public sector in New Hampshire do not require applicants to have a CWS or CSS.

The following information is being provided as clarifications regarding statements made by New Hampshire Office of Professional Licensure and Certification (OPLC) representatives and/or Governor representatives, either in the February 22 news release, in testimony before the House Executive Departments and Administration (ED&A) Committee on February 28 or March 10, and/or in a letter from the Governor addressed to the Natural Scientist Community dated March 9, 2023.

1. There is a misunderstanding regarding what the Society of Wetland Scientists Professional Wetland Scientist (SWS-PWS) certification is, and why the New Hampshire Certified Wetland Scientist (CWS) was created and continues to be necessary.

SWS-PWS

- The Society of Wetland Scientists is a national organization that's focused on private, not-for-profit scientific and educational objectives related to wetland science. They developed the SWS-PWS program for certification of wetland scientists.
- The SWS-PWS certification is solely based on education and experience. **It does not include field testing, nor is there a written exam requirement before issuance of certification.**
- The SWS-PWS certification does not require applicants to be educated in regional wetland parameters, nor does it require applicants to be educated in state-specific or federal-specific regulations.
- The SWS-PWS certification has not been authorized by any state or federal agency. **It does not serve as a national license or certification for wetland delineation or assessment.**
- The SWS-PWS certification process **has no mechanism for discipline or accountability to maintaining professional standards, and it does not have the ability to facilitate revocation**, if necessary.
- The SWS-PWS certification process is a completely separate, stand-alone process in relation to the New Hampshire CWS certification process. The SWS-PWS certification is not required to become a New Hampshire CWS.

CWS

- The CWS has a written and field exam requirement. The CWS requires applicants to be educated in wetland parameters specific to New England, as well as state-specific and federal-specific regulations. The CWS has been authorized by the State of New Hampshire and the U.S. Army Corps of Engineers.
- There is a mechanism for discipline and accountability to maintaining professional standards for the CWS, with the ability to facilitate revocation, if necessary. The Board of Natural Scientists is *the only entity* in the State of New Hampshire that has the authority to take disciplinary or revocation action against a certified wetlands professional. The Board of Natural Scientists may, by its duly-established authority, address complaints and violations as they are put forth by the public, and can ultimately reprimand, suspend or remove the CWS from practice through a due process system of review.
- The CWS serves as a certification for wetland delineation and assessment, amongst other things, as defined by NH RSA 310-A:76, II-a:

“Certified Wetland Scientist' means a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified by RSA 310-A:84, II-a and II-b, is qualified:

 - to delineate wetland boundaries and to prepare wetland maps;
 - to classify wetlands;
 - to prepare wetland function and value assessments;
 - to design wetland mitigation;
 - to implement wetland mitigation;
 - to monitor wetlands functions and values; and
 - to prepare associated reports

all in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or their successors, and who has been duly certified by the board.” (The “board” refers to the Board of Natural Scientists).
- The CWS has a stamp. The requirement for a CWS stamp on plans and reports is the ultimate verification for regulatory authorities, clients and municipalities that the wetlands on site were accurately delineated and assessed, and that the data provided can be used for development and permitting requirements. The CWS stamp is required by the New Hampshire Department of Environmental Services (NHDES) and the majority of municipalities within the State of New Hampshire for this distinct purpose. The CWS stamp is part of the base of information on subdivisions and site plans from which New Hampshire land use boards make informed decisions that protect public health and safety, property owners' rights, and our natural resources.
- The CWS was created to establish standards by which professional scientists would have a mechanism to verify education, field training and experience in order to assess and identify wetlands. The CWS processes currently offer a pathway for natural scientists to obtain important and necessary continuing education units (CEUs) in the areas of science, technology and permitting that are constantly changing. Education opportunities ensure the CWS are up-to-date in industry standards and requirements.

These are what distinguish the CWS from the SWS-PWS and why the CWS cannot be replaced with the SWS-PWS.

2. There is a misunderstanding regarding what the Soil Science Society of America Professional Soil Scientist (SSSA-PSS) certification program is, and why the New Hampshire Certified Soil Scientist (CSS) was created and continues to be necessary.

SSSA-PSS

- The Soil Science Society of America (SSSA) is a national organization that is focused on the advancement of soil science knowledge: “The Society provides information about soils in relation to crop production, environmental quality, ecosystem sustainability, bioremediation, waste management, recycling, and wise land use. SSSA supports its members by providing quality research-based publications, educational programs, certifications, K-12 outreach, and science policy initiatives via a Washington, DC office.”
- The SSSA-PSS certification is solely based on education, experience and includes a written general soils exam that is 84% soil chemistry, agronomy, plant water relationships and soil management. The section of the exam dealing with soil classification and mapping is not based on soils in the New Hampshire, or even New England, region, but mostly from the Midwest region. **This is only a written exam, there is no field exam.**
- The SSSA-PSS certification does not require applicants to be educated in regional soil parameters, nor does it require applicants to be educated in state-specific or federal-specific regulations.
- The SSSA-PSS certification has not been authorized by any state or federal agency. **It does not serve as a national license or certification for soil mapping.**
- The SSSA has a code of ethics and a disciplinary board. However, the items covered for disciplinary actions are very narrow, and because this organization is located in Wisconsin, field checks and field data cannot be adjudicated.
- The SSSA-PSS certification process is a completely separate, stand-alone process in relation to the New Hampshire CSS certification process. The SSSA certification is not required to become a New Hampshire CSS.

CSS

- The CSS has a written and field exam requirement. The CSS requires applicants to be educated in regional soils and soil characteristics, as well as state-specific and federal-specific regulations. The CSS has been authorized by the State of New Hampshire and the NHDES Alteration of Terrain Bureau.
- The national exam was used for testing in the beginning until a regional written exam was developed that tested for local soils knowledge. The written test and the field exams were developed based on the certified duties of the CSS and New Hampshire soil conditions.
- There is a mechanism for discipline and accountability to maintaining professional standards for the CSS, with the ability to facilitate revocation, if necessary. The Board of Natural Scientists is *the only entity* in the State of New Hampshire that has the authority to take disciplinary or revocation action against a certified soils professional. The Board of Natural Scientists may, by its duly-established authority, address complaints and violations as they are put forth by the public, and can ultimately reprimand, suspend or remove the CSS from practice through a due process system of review.

- The CSS serves as a certification for soil identification, soil classification and soil mapping, amongst other things, as defined by NH RSA 310-A:76, II-a:

“Certified Soil Scientist’ means a person who, by reason of special knowledge of pedological principles acquired by professional education and practical experience, as specified by RSA 310-A:84, I and II, is qualified to identify, classify, and prepare soil maps according to the standards of the National Cooperative Soil Survey, or standards adopted by the New Hampshire Department of Environmental Services, or standards adopted by the board, and who has been duly certified by the board.” (The “board” refers to the Board of Natural Scientists).

Additionally, in order to become a CSS, an applicant has to complete a written exam that tests proficiency in New Hampshire soils and general soil mapping concepts followed by a local field exam that tests the applicant’s proficiency in soil mapping in New Hampshire.

- The CSS has a stamp. The requirement for a CSS stamp on plans and reports is the ultimate verification for regulatory authorities, clients and municipalities that the soils on site were accurately classified, mapped and assessed, and that the data provided can be used for development and permitting requirements. The CSS stamp is required by the NHDES and a majority of municipalities within the State of New Hampshire for this distinct purpose. The CSS work is an integral part of the base of information for engineers and planners to use for developing subdivisions, site plans and stormwater-based decisions for design and post site conditions. New Hampshire land use boards and the NHDES depend on this information to make informed decisions that protect public health and safety, flooding potential, property owners’ rights, and our natural resources.
- The CSS was created to establish standards by which professional scientists would have a mechanism to verify education, field training and experience in order to identify, classify and map soils. The CSS process currently offers a pathway for natural scientists to obtain important and necessary continuing education units (CEUs) in the areas of science, technology and permitting that are constantly changing. Education opportunities ensure that the CSS is up-to-date in industry standards and requirements.

These are what distinguish the CSS from the SSSA and why the CSS cannot be replaced with the SSSA.

The New Hampshire CWS and CSS licensing structure was setup in the 1990s, through the New Hampshire Legislature, because the national certifications were not focused on the specific needs for public safety and welfare in New Hampshire. This structure has been successfully protecting the public and the natural environment in New Hampshire for the past 20-plus years and is an excellent example of something that works. Current standards are maintained as a result of having a Board that requires continuing education, and deals with disciplinary and revocation actions, as necessary. Proper training reduces complaints and this is why there have been minimal complaints and actions taken against natural scientists. The CWS/CSS certifications are not causing an impediment, are not a work force barrier, and most municipalities in the State rely on them.

The CWS/CSS certifications maintain trained professionals that help in the process of interpreting and implementing the expansive regulations that now exist. Without CWS/CSS there is potential for the loss of confidence in the State of New Hampshire regulatory process by federal agencies that oversee environmental actions in New Hampshire, including U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service and others, which could have those agencies increasingly stepping back in to dictate how things run in New Hampshire. Other unintended consequences of the proposed repeal of CWS/CSS are concerning as well, including the potential for

increased permitting timeframes and costs, slowing of development, and increased disputes between developers and regulators.

We appreciate the opportunity to submit these comments and we are available for any additional questions or comments. Please contact Kimberly Peace (NHANRS Legislative Chair) at kpeace@hoyletanner.com or myself at collis.adams@comcast.net if you would like to discuss further.

Sincerely,

A handwritten signature in black ink that reads "CG Adams". The letters are cursive and fluid.

Collis Adams, CWS
NHANRS President

cc: Lindsey B. Courtney, OPLC Executive Director
Office of the Governor, State of New Hampshire
Teresa Rosenberger, Bernstein Shur