

NAHB, Corps and EPA Discuss Plant List, Permitting Issues

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NAHB members have made clear their dissatisfaction with the [2012 Wetland Plant List](#), which federal regulators use to help determine the boundaries of a wetland – and restrictions on its development – partly by confirming the presence of certain species of plants.

Meeting with EPA and U.S. Army Corps of Engineers officials earlier this month, NAHB member engineers and environmental consultants told the regulators that the new list overstates the probability of a number of species occurring in wetlands versus the probability of their occurring in uplands. Most egregious, they said, is the new listing of Japanese honeysuckle and Loblolly Pine as wetland indicator plants.

Members said they also feared that the new plant list will exaggerate the reach of a wetland. “While national wetlands regulations were put together to protect special and valuable wetland areas of the landscape, the new plant list will lead to the regulation of the prevalent condition of the landscape, rather than the special wetland condition,” one meeting attendee told Corps representatives.

In other words, if a plant species is situated primarily in a wetlands area but is also known to grow in non-wetlands habitat, regulatory overreach could needlessly be extended to the non-wetlands area.

NAHB members also expressed concerns that the new plant list will increase the cost of performing a delineation.

During its spring board meeting in Washington, D.C., NAHB hosted a one-hour session to discuss wetlands permitting and delineation and other related issues. Attendees included Meg Gaffney-Smith, chief of the Corps' Regulatory Branch, and David Evans, director of the Wetlands Division of EPA's Office of Wetlands, Oceans and Watersheds. Several NAHB staff members, staff from a half-dozen HBAs and about 20 NAHB members also attended.

Gaffney-Smith defended the new list, telling members that it was assembled by a group of federal agencies, not just the Corps, and negotiated through the Office of Management and Budget. She also noted that the 2012 list is the first update since the 1988 Plant List and it is meant to standardize the delineation process nationally.

Gaffney-Smith said she is interested in determining the impact of the new list, especially on wetlands delineations, offering to set up a briefing from the principal authors for NAHB members. One problem, attendees pointed out, is that it costs about \$10,000 per species to challenge the indicator status of that species.

NAHB is seeking input from members regarding the value of a Corps briefing on the new plant list.

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