

**STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION**

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Offices

Dept of Environmental Services
Water Division

SUBJECT Proposed changes to HB 1305 language
related to changes in RSA 485-A

TO Water Quality Standards Advisory
Committee

On June 22, 2010, the Water Quality Standards Advisory Committee (WQSAC) approved proposed language to revise RSA 485-A. This language was developed by working groups of the WQSAC at the request of the House RR&D Committee. The WQSAC directed DES staff to review the language and to work with Legislative Services to identify any remaining problems.

DES staff met with Joel Anderson, staff to the House RR&D Committee, on July 12, 2010. DES staff and Senior Management also met to discuss the proposed changes on August 11, 2010. As a result of these meetings and additional review of the proposed language, DES is recommending the following changes. Each of the changes is outlined and explained below.

Delete definitions for “wetlands”

Explanation:

There was concern that establishing an explicit definition of wetlands in RSA 485-A narrower in scope than the definition in RSA 482-A would erode the jurisdiction for wetlands regulation by RSA 482-A. The objective of the definition change is to clarify that the surface water quality standards apply to all waters of the United States under the federal Clean Water Act. This objective could be achieved using an alternative proposal for the definition of “surface waters of the state”.

The alternative proposal for the definition of “surface waters of the state” is:

XIV. “Surface waters of the state” means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, ~~and~~ other bodies of water, natural or artificial, *and waters of the United States under the federal Clean Water Act.*

[note: strikethrough and bold-italics indicate changes from existing RSA.]

This proposal clarifies that the jurisdiction of the surface water quality standards includes all waters of the United States, without having to specifically define wetlands. This definition is effectively the same as the definition that was proposed by the WQSAC.

Delete definitions for “fresh waters”, “tidal waters”, and “waters of the state”.

Explanation:

These definitions are no longer needed because the new proposal does not reference these terms.

Edit the definition of “Water Quality Standards”.

Explanation:

The original proposal for this definition was:

“Water Standards” means the combination of designated beneficial uses, criteria to support the uses, and antidegradation provisions contained in this chapter and rules adopted pursuant to this chapter that are applicable to waters of the state.

This definition was changed to:

“Water Quality Standards” means the combination of designated beneficial uses, criteria to support the uses, and antidegradation provisions whether specified in this chapter or rules adopted pursuant to this chapter.

There are already groundwater quality standards so changing the name of the surface water quality standards to “water standards” would be confusing.

Delete definition for “waterbody”.

Explanation:

DES searched the RSAs for definitions and uses of the term “waterbody”. The term was spelled in two ways: “water body” and “waterbody”. The use of the term varied. Given that it is not critical to define the term in RSA 485-A, the proposed definition should be deleted to avoid further complicating the RSAs.

Provide a more robust reference to federal antidegradation regulations.

Explanation:

In case the federal antidegradation regulation were changed, the reference to this regulation should be appended with “or any successor regulation promulgated by the United States Environmental Protection Agency.”

The proposed language related to HB 1305 showing the edits made by DES staff is attached.