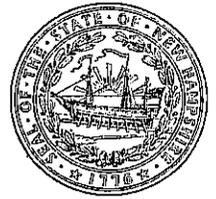




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 20, 2010

The Honorable Judith T. Spang
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 1305, an act relative to relative to designating uses for surface waters

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 1305 which makes technical corrections and additions to RSA 485-A to better align New Hampshire law with the requirements of the federal Clean Water Act (Act). This bill was requested by the Department of Environmental Services (DES).

Under the Act, surface water quality standards must be adopted by the state and approved by EPA. The standards have three required components: designated uses, numeric or narrative criteria to support the uses, and an antidegradation policy. In New Hampshire, surface water quality standards adopted in both statute (RSA 485-A:8-11) and DES regulations (Env-Wq 1700).

This legislation does three things:

I. Adds the words "swamps, bogs, other wetlands" to the definition of surface waters so it is clear that all wetlands subject to the Clean Water Act are also subject to state water quality standards. DES has always interpreted the statutory definition to include all wetlands and this is reflected in the regulations. EPA has questioned this.

II. Clearly identifies the designated uses for New Hampshire surface waters. The department has already adopted surface water quality regulations to protect these six designated uses. This is reflected in our biennial 305(b) report to EPA and the legislature. Geomorphic integrity, previously considered by DES to be part of aquatic life, has now been broken out as a separate designated use to better integrate surface water quality standards with the new Fluvial Erosion Hazard Program.

III. Incorporates the antidegradation requirements of federal 40 CFR 131.12. States are required to incorporate these requirements, and they are already in DES' regulations. The proposed legislative language mirrors the federal language.

Thank you for the opportunity to comment on this bill. Please feel free to call me at 271-2958, or Paul Currier at 271-3289, if you have any questions or need additional information.

Very truly yours,

Thomas S. Burack
Commissioner

cc: Rep. Moody Rep. Spang Rep. Abbott
Rep. G. Richardson Sen. Cilley