



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 13, 2016

The Honorable Robert Haefner, Chair  
House Environment and Agriculture Committee  
Legislative Office Building, Room 303  
Concord, New Hampshire 03301

**SUBJECT: HB 1171, An act relative to appeals heard by the Waste Management Council**

Dear Chair Haefner and Members of the Committee:

Thank you for the opportunity to testify in support of House Bill 1171. The New Hampshire Department of Environmental Services (NHDES) supports this bill, which would correct and clarify statutory language in RSA 146-A and RSA 146-C identifying the council that hears appeals of NHDES decisions regarding oil discharges and underground storage facilities.

The administrative appeals process for NHDES decisions is governed by RSA 21-O:14. This section allows any person aggrieved by a NHDES decision to file an appeal with the council having jurisdiction over the subject matter of the appeal. RSA 21-O:7 and RSA 21-O:9, respectively, establish the Water Council and the Waste Management Council to consult with and advise the directors of NHDES' corresponding divisions regarding policy, programs, goals, and operations. RSA 21-O:7, IV authorizes the Water Council to hear administrative appeals of NHDES decisions related to the Water Division's functions and responsibilities, and RSA 21-O:9, V authorizes the Waste Management Council to hear appeals of NHDES decisions related to the Waste Management Division's functions and responsibilities.

In the early days of NHDES, the Water Division enforced New Hampshire's statutes and rules pertaining to oil discharges and underground storage facilities. These functions were reassigned to the Waste Management Division in 1996 as part of a larger internal reorganization. As a result of NHDES' former organization, the statutes pertaining to oil discharges (RSA 146-A) and underground storage facilities (RSA 146-C) refer appeals of NHDES decisions regarding these topics to the Water Council, rather than the Waste Management Council. House Bill 1171 would replace the Water Council statute (RSA 21-O:7) references in RSA 146-A and RSA 146-C with references to the Waste Management Council and the corresponding statute (RSA 21-O:9). NHDES supports this bill because it would bring the appeals language of RSA 146-A and RSA 146-C into alignment with the

DES Web Site: [www.des.nh.gov](http://www.des.nh.gov)

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095  
Telephone: (603) 271-3899 Fax: (603) 271-2181 TDD Access: Relay NH 1-800-735-2964

administrative appeals process of RSA 21-O:14 by referring appeals of NHDES decisions to the council that is most directly aligned with and best suited to consider the subject matter at issue.

Thank you for the opportunity to provide testimony on this bill. If you have questions or need additional information, please contact Michael Wimsatt, Director of the Waste Management Division at (603) 271-2905 [Michael.Wimsatt@des.nh.gov](mailto:Michael.Wimsatt@des.nh.gov), or Sarah Yuhaskirn, Administrator of the Oil Remediation & Compliance Bureau at (603) 271-3645 [Sarah.Yuhaskirn@des.nh.gov](mailto:Sarah.Yuhaskirn@des.nh.gov).

Sincerely,

A handwritten signature in blue ink that reads "Thomas S. Burack". The signature is written in a cursive style with a large, stylized "B".

Thomas S. Burack, Commissioner  
Department of Environmental Services

Cc: Sponsors of HB 1171: Reps. Chris Christensen, Ebel; Sens. Birdsell, Woodburn