



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



**Thomas S. Burack, Commissioner**

January 26, 2016

The Honorable Chris Christensen, Chair  
Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301

RE: **HB 1595-FN** *An act relative to the rivers management and protection program.*

Dear Chairman Christensen and Members of the Committee:

Thank you for the opportunity to comment on HB 1595. This bill would update RSA 483, the New Hampshire Rivers Management and Protection Program, to accommodate advances in river-related sciences, simplify the administrative process of nominating members to the Rivers Management Advisory Committee, limit the application of the Shoreland Water Quality Protection Act, and make other changes that reflect current Rivers Program activities. The New Hampshire Department of Environmental Services (NHDES) supports this bill but suggests a minor change.

Scientific advances in the 28 years since the Rivers Program legislation was enacted have resulted in a better understanding of river flow dynamics, impacts resulting from floods, and the consequences of low flows on fish, wildlife and water-dependent businesses. To reflect this enhanced knowledge, this bill would amend RSA 483 to require the consideration of fluvial geomorphology in river corridor management plans and to refine the definition of instream flow protection to reflect the dynamic flow patterns of rivers.

Administrative updates to RSA 483 are required to accommodate changes in organizational names, responsibilities, and capacity. The proposed language reduces the required number of nominations for each seat on the Rivers Management Advisory Committee from three to one. This reflects the challenge that organizations face in finding multiple qualified candidates willing to volunteer for these seats. Similarly, changes in the membership requirements for local river management advisory committees would eliminate the need for municipalities to be represented on the committee unless they so desire, thereby re-affirming the locally-driven nature of the Rivers Program.

Finally, recent interest among river advocacy groups in nominating small river networks into the Rivers Program has identified the challenge of applying the protections of the Shoreland



Water Quality Protection Act to small, low order streams. To address this concern, this bill would amend RSA 483 to apply only the Waterfront Buffer protections -- those which limit vegetative cutting, building, fertilizer application and other activities within 50 feet of the high water mark -- to lower order streams. This change would constitute a compromise that would maintain the critical water quality protection buffer near the water's edge while allowing greater development flexibility within the remaining area of the Protected Shoreland of small designated rivers. This change would also be expected to minimize the additional permitting burden on Department staff that might result from the designation of first through third order streams. Unfortunately, upon further review and analysis of this section of the bill (see page 9, line 36), we have determined that, as proposed, it would not fully accomplish all of these benefits. Accordingly, NHDES recommends striking the proposed revision to RSA 483-B:9, V and instead making the following change (shown below in bold) to RSA 483-B:4, XV:

"Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, except private garden water features and ponds of less than 10 acres, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters. **For river segments of third order or lower designated as protected under RSA 483:15 which are either designated after, or for which specific exemptions are repealed after, December 31, 2015, protected shoreland shall mean all land located within 50 feet of the reference line of public waters.**

Thank you for your consideration of this matter. If you have questions or need additional information, please contact Ted Diers, Watershed Management Bureau Administrator ([ted.diers@des.nh.gov](mailto:ted.diers@des.nh.gov) or 271-3289) or Tracie Sales, Watershed Planner ([tracie.sales@des.nh.gov](mailto:tracie.sales@des.nh.gov) or 271-8811).

Sincerely,



Thomas S. Burack  
Commissioner

Cc: Sponsors of HB1595: Reps. Spang, Beaulieu, Ford, Gottling; Sens. Fuller Clark, Reagan

