



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

February 20, 2018

The Honorable Richard Barry  
Chair, Science, Technology and Energy Committee  
Legislative Office Building Room 304  
Concord, NH 03301

**RE: HB 1101, An Act Regulating Groundwater Pollution Caused by Polluting Emissions in the Air and setting standards for certain perfluorinated compounds**

Dear Chair Barry and Members of the Committee:

Thank you for the opportunity to comment on HB 1101, as amended, which seeks to establish new standards for devices emitting air pollutants which have the potential to harm soil and water via deposition and establishment of certain water quality standards. The New Hampshire Department of Environmental Services (NHDES) requested and supports this bill.

As you are likely aware, HB 485 relative to these same topics recently passed the full House after amendment in House Finance Division 1. During the Finance Committee process, NHDES requested to amend some of the air emissions language to clarify the scope of compounds regulated by the bill to perfluorinated compounds (PFCs), as well as to address certain precursor compounds. Due to procedural concerns, that amendment was not able to be considered. This bill will address that. NHDES has also concluded that it would soon be possible to reevaluate or set standards (ambient groundwater quality standards and maximum contaminant levels) for four specific PFCs found in New Hampshire's water at a number of locations in the state. This bill includes language directing NHDES to set these standards.

In early 2016, the presence of PFCs, more specifically perfluorooctanoic acid (PFOA) and perfluorooctane sulphonate (PFOS), were discovered in public drinking water wells in the Towns of Merrimack, Litchfield, and Amherst. PFCs are a family of manmade chemicals that have been used for decades as an ingredient to make products that resist heat, oil, stains, grease, and water, such as non-stick cookware, weather resistant outdoor clothing and gear, and stain resistant carpeting. Many chemicals in this group are now commonly present in the environment and do not break down easily. A subsequent investigation by NHDES concluded that the primary source of the groundwater contamination in southern NH was the air deposition of PFCs and PFC precursors from nearby manufacturing facilities. In brief, NHDES determined that stack emissions of PFCs deposit primarily in the soil in the area surrounding the facility, then leaches into the groundwater table over time.

It is important to understand that currently under statute RSA 125 – I, the NHDES Air Resources Division has authority to limit air emissions of certain regulated toxic air

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pollutants (RTAPs). However, that authority is currently limited to addressing the risks posed by inhalation of these compounds beyond the property boundary of the facility. It does not address the risk posed by deposition of these compounds to the ground and subsequent ingestion of contaminated water, as was discovered last spring in southern NH.

While HB 1101 would give NHDES additional authority to address the air deposition on the basis of the potential to contaminate groundwater, it is intended to only address a limited number of PFCs. As drafted, HB 1101 would require facilities that emit certain PFCs with the potential to deposit onto the ground such that they can exceed ambient groundwater quality standards to install the best available control technology (BACT) in order to minimize the health and environmental impacts of these pollutants. While NHDES realizes that this may impose additional equipment and operational costs on affected facilities, we believe that the environmental and economic impacts from the resulting groundwater contamination justifies the potential additional air pollution control equipment costs.

During the drafting of HB 1101, NHDES mistakenly used the incorrect reference for defining the PFCs to be considered for regulation. The proposed amendment will correct this error with the appropriate reference.

The portion of the amendment relative to water standards:

1. directs the department to evaluate the existing ambient ground water quality standard for PFOA and PFOS and set ambient groundwater quality standards for perfluorononanoic acid (PFNA) and perfluorohexanesulfonic acid (PFHxS),
2. establishes the criteria for setting maximum contaminant limits for public drinking water and directs the department to set maximum contaminant levels (MCLs) for PFOA, PFOS, PFNA and PFHxS,
3. clarifies the basis for and requires periodic review of all ambient groundwater quality standards, and
4. establishes a toxicologist position and a human health risk assessor position in the Department of Environmental Services.

NHDES supports this amendment because it provides all the necessary components to set remediation and drinking water standards, including the use of good science to establish health based criteria, an understanding of the impact and practicality of setting the standard, and the resources and time for needed analysis. It also aligns the process for setting MCLs for public drinking water systems with that of other states and the USEPA by amending the NH Safe Drinking Water Act. Finally, it will allow the department to consider important research on four perfluorochemicals that have been found in New Hampshire's

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water. Namely, it allows NHDES to consider toxicological profiles that the Centers for Disease Control and Prevention (CDC) will release this summer that will establish Minimal Risk Levels for PFOA, PFOS, PFNA and PFHxS.

NHDES also notes certain sections of this amendment may duplicate language in HB 485 and/or other bills currently under consideration in the Senate. These may have to be reconciled following Senate action on these bills. Also, in the event of passage of HB 485, the effective date of this bill should be after that of HB 485 to avoid having two bills amend the same RSA in different ways.

Thank you again for the opportunity to comment on HB 1101. If you have any questions or require further information, please contact Michael Fitzgerald, Assistant Director, Air Resources Division ([michael.fitzgerald@des.nh.gov](mailto:michael.fitzgerald@des.nh.gov), 271-6390) or Sarah Pillsbury, Administrator, Drinking Water and Groundwater Bureau ([sarah.pillsbury@des.nh.gov](mailto:sarah.pillsbury@des.nh.gov), 271-1168).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a stylized flourish at the end.

Robert R. Scott  
Commissioner