



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 11, 2018

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

RE: HB 1737, AN ACT relative to the permissible level of methyl tertiary butyl ether in drinking water

Dear Chairman Christensen and Members of the Committee:

Thank you for the opportunity to comment on HB 1737. This bill repeals the current drinking water standard of 13 ppb for methyl tertiary butyl ether (MtBE) and would not allow public water systems to deliver water with greater than 0.5 ppb MtBE. The Department of Environmental Services (NHDES) opposes the bill because municipalities and other owners of public water systems would incur substantial costs in order to comply with the requirements of the bill, without any demonstrable benefit to public health or the environment.

The current primary drinking water quality standard of 13 ppb (i.e. 13 micrograms per liter) for MtBE was established by NHDES after the enactment of RSA 485:16-a in 1999, which amended New Hampshire's Safe Drinking Water Act to instruct NHDES to set a standard for MtBE. It should be noted that MtBE is the only health-based drinking water standard that does not reflect a federal standard and for which there is no corresponding federal standard. New Hampshire's standard was developed based on a lifetime excess cancer risk level of one in one million, which means there is a likelihood that up to one person out of one million equally exposed people would contract cancer if they consumed two liters of water contaminated with 13 ppb of MtBE per day for seventy years. This standard reflects the approach to setting standards under the federal Safe Drinking Water Act (i.e. based on the need to protect human health while balancing the technological and financial feasibility of removing contaminants from drinking water). This is also the same standard set for MtBE in California which is one of the few states with the resources to independently set drinking water standards. The existing standard is periodically reviewed and currently we do not believe there is additional research or federal guidance that would prompt an update of the primary drinking water standard associated with MtBE.

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Pursuant to state and federal law, public water systems must meet primary (health-based) drinking water standards. These public water systems also have the authority to implement mitigation measures to address MtBE contamination in their drinking water that is below the primary drinking water standard of 13 ppb, but oftentimes do not have sufficient financial resources to do so. Due to the widespread occurrence of this contaminant in New Hampshire's environment, and the cost associated with removing this compound from drinking water, it is not economically feasible to require every regulated public water system to provide water meeting a 0.5 ppb MtBE limit. A standard of 0.5 ppb MtBE would be costly and presumably would be paid for through increased water user rates or from some other source of public funding. Meeting this standard could divert resources that are addressing important public health issues, such as meeting current standards for other contaminants. Spending funds to achieve a standard that is not scientifically derived in accordance with the federal Safe Drinking Water Act standard setting approach could result in less public health protection at water systems with low level detections of MtBE.

Finally, NHDES is concerned that HB 1737 would prohibit public water systems from providing any water containing 0.5ppb MtBE. Under current law, the standard approach when drinking water standards are exceeded is to notify customers and provide information about the suitability of the water for consumption, sanitary uses and other uses in lieu of terminating the delivery of water altogether as would be required by HB 1737. This approach under current law ensures that water for sanitary uses (i.e. use of water for flushing toilets, washing dishes and clothes, etc.) and, in some cases, firefighter services provided by the public water system are maintained while drinking water quality violations are addressed. The prohibition that would be imposed under HB 1737 would put public health and safety at risk in impacted communities.

HB 1737, as proposed, would apply to only public water systems and not private well owners. By law, public water systems are water systems that serve at least 25 people 60 days a year. There are 2,479 active public water systems in New Hampshire. Public water systems are categorized into the following three types of water systems based on the population they serve. There are 699 community public water systems which serve a residential population year round. There are 455 non-community public water systems, which serve water to a consistent population on a regular basis, such as a place of work or a school. There are 1,325 transient public water systems, which serve water to a transient population at locations such as a restaurant or at a gas station that sells coffee or fountain drinks that are made using onsite sources of water. Based on drinking water quality data reported to NHDES from 2011-2013, approximately 88 public water systems (41 community and 47 non-community) have detectable concentrations of MtBE based on laboratory analyses that generally have a detection limit of 0.5 ppb. The 1,303 transient public water

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systems are not required by law to test for the presence of MtBE in the drinking water they serve, so the occurrence of MtBE at these systems is unknown. However, a study conducted in southern New Hampshire in 2002 by the United States Geological Survey estimated that as much as 35% of the transient public water supply systems could detect MtBE at a detection level of 0.2 ppb or higher. Accordingly, an estimate based on this study is that more than 500 of New Hampshire's 2,479 public water systems could be affected by HB 1737.

While NHDES understands and appreciates the intent of this bill, we believe it would impose unwarranted costs on public water system operators, and would effectively impose a restriction on the use of public water supplies. It would also conflict with the well established, balanced, scientific method for setting drinking water standards nationally. Accordingly, we oppose HB 1737 and respectfully request that the committee find the bill Inexpedient to Legislate.

Thank you again for the opportunity to comment on this proposed legislation. If you have questions or need additional information, please contact Gene Forbes (Eugene.Forbes@des.nh.gov or 271-0677) or Sarah Pillsbury, Drinking Water and Groundwater Bureau Administrator (Sarah.Pillsbury@des.nh.gov or 271-1168).

Sincerely,



Robert R. Scott
Commissioner

cc: Representatives McConnell and Messmer