



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

March 27, 2018

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

RE: SB 450-FN-A – An act establishing an advisory commission for the department of environmental services relative to the delegation of authority of the National Pollutant Discharge Elimination System Program.

Dear Chairman Christensen and Members of the Committee:

Thank you for the opportunity to comment on SB 450-FN-A.

This bill is a continuation of the work accomplished by the SB 121 study commission whose original charge was to determine if NHDES should request delegation of the municipal separate storm sewer system (MS4) permit program from the Environmental Protection Agency (EPA), and to recommend a funding mechanism to pay for the costs of administering the program. During the process, the commission learned that NHDES could not choose NPDES programs for delegation but rather would have to assume delegation of all NPDES programs. As such, SB 121 was amended from “take over the MS-4 permit system” to “request delegation of the NPDES program.”

The origins of SB 121 reflected the importance of the MS4 permit to many communities. The MS4 permit requirements as well as all NPDES permit requirements have cost implications for many communities. During the hearings of the SB 121 study commission, NHDES learned that communities generally appreciated working with NHDES staff; technical assistance provided by NHDES was informative and helpful, and communities wanted to ensure that sound science was used when issuing permits. However, notwithstanding which agency is the permitting authority, all permits issued must comply with the Clean Water Act and be as stringent as EPA’s.

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Presently, New Hampshire is one of four states in the nation that are “nondelegated” for NPDES. This issue has been raised many times over the past 20 years. It is quite clear that assuming delegation of the NPDES program would be very expensive. Many new positions at NHDES would be needed to meet the requirements of assuming delegation of the entire program. There are over a dozen different types of permits under the NPDES program. A consistently-funded fee structure is required in order to hire the required number of employees to administer the program.

Due to the potential cost of assuming delegation of the entire NPDES program, NHDES does not want to lose sight of what issues are important to NPDES permit holders including their relationship with NHDES, technical assistance provided, and permits based on sound science. As such, this study should also examine what issues are most important to NPDES permit holders and determine the best approach to address those particular issues, be that delegation or other improvement to the current structure.

Thank you again for the opportunity to comment on SB 450-FN-A. If you have further questions or need additional information, please contact Gene Forbes (Eugene.Forbes@des.nh.gov, 271-3308) or Tracy Wood (Tracy.Wood@des.nh.gov, 271-2001).

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of SB 450-FN-A: Senators Bradley, Carson, Fuller Clark, Gannon, Gray, Innis, Reagan, Watters Representatives Vose, Mullen, Smith, Spang