



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

April 2, 2019

The Honorable Jeffrey Goley
Chair, House Executive Departments and Administration Committee
Legislative Office Building, Room 306
Concord, NH 03301

RE: SB 257 - prohibiting foams containing perfluoroakyl chemicals for use in fighting fires

Dear Chair Goley and Members of the Committee:

Thank you for the opportunity to testify on SB 257. This bill, as amended by the Senate, would prohibit the manufacture, sale, or distribution of class B firefighting foams (i.e., foams used to control flammable liquid fires) containing per- and poly-fluoroalkylated substances ("PFAS"); require certain notices relative to the sale of firefighting personal protective equipment that contains PFAS; and limit the use of PFAS foams in training. The bill also establishes a role for the New Hampshire Department of Environmental Services (NHDES) in implementing these prohibitions, and directs NHDES to institute a take-back program for the proper disposal of legacy PFAS foams. NHDES supports the effort to limit or eliminate the use of PFAS chemistry in firefighting foams, but does have some concerns with the bill as currently drafted. We understand that this bill may be assigned to a subcommittee, and we would welcome the opportunity to assist the subcommittee in further refinement of the bill.

In 2014, when the contamination in the Haven Well at Pease Tradeport was discovered, NHDES began its work to address drinking water contamination and human exposures to perfluorooctane sulfonic acid (PFOS) and other PFAS compounds from firefighting foams. Since then, we have identified drinking water contamination in several communities resulting from training and firefighting use of PFAS-containing foams. We share concerns, along with thousands of citizens across the state, about the potential health risks posed by these exposures, and have been heavily engaged in ensuring that safe, clean drinking water is provided in these areas.

NHDES is aware that current class B foam formulations, while now not formulated with PFOS, still contain other PFAS compounds that are of concern, including one, PFHxS, for which NHDES will be setting a drinking water standard later this year. Accordingly, NHDES supports the idea of getting PFAS compounds out of firefighting foams, and replacing them with safer chemicals. However, while we understand that the performance of new, fluorine-free foams is steadily increasing, the information we have does not clearly indicate that these products are a completely effective substitute for PFAS-containing foams. We want to make clear that NHDES defers all decisions about how to best protect life and property during a fire emergency to the fire service. We are not the experts on this question; we do not know if there are effective substitutes for foams containing PFAS; and we would not support the prohibition contained in this bill if it is not also supported by representatives of the fire service, including especially the Office of the State Fire Marshall.

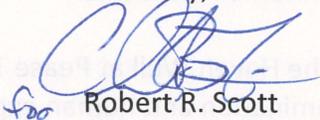
NHDES is engaged in outreach to the fire service about the impacts of use of PFAS-containing foams, and indeed is working to address contamination at several fire training sites. We are also working to develop a program for collection of dated foams currently possessed by local NH fire departments. We do not object to the bill's provision directing NHDES to institute a take-back program for legacy foams, but note that the bill provides for no appropriation of funds to implement such a program. We suggest as an alternative, that the bill instead require a manufacturer take-back program, commonly referred to as a stewardship program, whereby the original manufacturers of the legacy foams possessed by NH fire departments would be required to take back these foams free of charge.

NHDES also notes that the bill establishes administrative fines for violations of the law, but does not specifically grant administrative fine authority to any state agency. We believe the bill would benefit from further clarifying language in this regard.

In summary, NHDES generally supports the goals of SB 257, but defers a position on its key provision prohibiting the sale or use of class B foams containing PFAS to the experts in protection of life and property, the fire service. We would welcome the opportunity to assist in any way that we can if the bill is assigned to a subcommittee.

Thank you again for the opportunity to comment on this bill. Should you have further questions or need additional information, please feel free to contact Mike Wimsatt, Director, Waste Management Division (michael.wimsatt@des.nh.gov, 271-1997).

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of SB 257: Senators Sherman, Rosenwald, Hennessey, Levesque, Fuller Clark, Kahn, Cavanaugh, Representative Goley