



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 21, 2020

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

RE: HB 1569, AN ACT requiring the department of environmental services to maintain a public registry of where certain fire suppressants have been used.

Dear Chair Smith and Members of the Committee:

Thank you for the opportunity to testify on HB 1569. This bill would repeal and reenact RSA 154:8-b, XI, which currently states that *"Any time a class B firefighting foam to which PFAS chemicals have been intentionally added is discharged, the municipality making such discharge shall notify the department of environmental services within 48 hours of such discharge."* HB 1569 would amend this provision of the law to significantly broaden the scope of the reporting requirements and include a requirement that NHDES establish an active public registry on its website for compilation and analysis of information relating to the sites where the class B firefighting foam has been discharged, stored, captured, collected, managed, or disposed of. HB 1569 also establishes fines to be imposed on municipalities that fail to report, and establishes a dedicated PFAS Remediation Fund to be used to fund remediation of PFAS contaminated sites. Any fines levied would be deposited to the fund. NHDES is supportive of the bill's notification and registry provisions, but has concerns with the remaining provisions of the bill.

Current law under RSA 154:8-b, XI requires municipalities to report only *discharges* of Class B foams. This bill would significantly expand that reporting to include notification of all areas where such foams have been stored, captured, collected, managed, or disposed of. NHDES supports these reporting requirements, which would help to identify where foams may have been released, help the agency prioritize investigative and cleanup resources, and ensure clean, safe drinking water is provided to New Hampshire residents. We further support the creation of a public registry, which will help to inform the public about this topic of high interest.

NHDES has concerns about the remaining provisions of this bill. First, the bill establishes fines for municipalities that do not comply with the reporting requirements. While we do not take an official position on this, NHDES notes that it anticipates a high degree of compliance by municipalities regarding the reporting requirement. Further, we believe our limited resources would best be expended working with municipalities to compile the needed information, rather than pursuing penalty actions.

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29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • Fax: 271-2867 TDD Access: Relay NH 1-800-735-2964

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Second, the bill establishes a PFAS remediation fund to be used to fund remediation of PFAS contaminated sites. As we understand the bill, the fund's only revenue would be fines collected from municipalities for failure to make the required notifications. Because NHDES believes that reporting compliance by municipalities will be high, and because collection of fines is a time-consuming and expensive process, we do not believe that the fund would be a reliable funding source for site cleanup, and that the costs of administering the fund would likely exceed the revenues. For these reasons, we do not support the establishment of the fund.

Thank you again for the opportunity to comment on HB 1569. We would be happy to work with bill sponsors to address our concerns.

Should you have questions or need additional information, please feel free to contact either Mike Wimsatt, Waste Management Division Director, at michael.wimsatt@des.nh.gov or (603) 271-1997, or Karlee Kenison, Hazardous Waste Remediation Bureau Administrator, at karlee.kenison@des.nh.gov or (603) 271-3744.

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of HB 1569: Representatives Murphy, Petrigno, Salloway, Meuse, Gay, Cushing, Bushway, French, Eisner, Edgar, Senators Sherman, Morgan