



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 14, 2020

The Honorable Marjorie Smith
Chair, House Judiciary Committee
Legislative Office Building, Room 208
Concord, NH 03301

RE: HB 1120, requiring periodic water tests of rental property

Dear Chair Smith and Members of the Committee:

Thank you for the opportunity to testify on HB 1120. This bill would require landlords of residential properties to provide tenants and prospective tenants with an annual report regarding the quality of the water supply, and make landlords responsible for installing water treatment systems at properties served by private wells where the water does not meet state standards for arsenic, radon, and polyfluoroalkyl substances (PFAS). The New Hampshire Department of Environmental Services (NHDES) does not take a position on this bill. However, NHDES does support the goal of ensuring the safety of drinking water supplies, and in particular supports measures to ensure that people have access to information about their water supplies.

Nearly half of New Hampshire residents are served by private wells at home. The rest are served by regulated community water systems – those that serve at least 15 service connections or 25 residents. While NHDES regulates the safety of the water provided to homes by community water systems, there are no statewide requirements that ensure the safety of water from private wells. In light of the prevalence of unsafe levels of contaminants in private wells – most often naturally occurring contaminants such as arsenic – the use of untested, untreated well water is a significant public health concern in New Hampshire. This bill would address an important aspect of this issue – the use of untested, untreated private water supplies in rental housing.

The bill would require landlords of buildings served by regulated community water systems to provide access to the water quality reports – also known as consumer confidence reports – that community water systems are required to provide to their customers annually. Currently, those water systems are required by federal and state law to provide those reports to landlords but not to tenants. For buildings served by private wells, the bill would require landlords to test the water annually for arsenic, radon, and PFAS.

As noted above, contaminants are common in well water in New Hampshire. Approximately 30 percent have arsenic that is over the five parts-per-billion limit that has been proposed to apply to public water systems beginning July 1, 2021. Approximately 24 percent of bedrock wells have more than 10,000 picocuries per liter of radon, the level at which NHDES recommends the treatment of water in conjunction with mitigation of radon in air. NHDES estimates that five to ten percent of

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private wells have PFAS at levels exceeding the standards adopted by NHDES for public water systems.

The bill as introduced does have some technical issues, specifically:

- Paragraph I – if the property is served by a community water system, the water quality report would be provided by the water system (rather than the municipality); many community water systems are not operated by municipalities.
- Paragraph II – the contaminants listed (arsenic, radon, and PFAS) do not include many of the common contaminants included in the “NH Well Water Test for Home Buyers” referenced in HB 667, a bill that would require testing of new wells. Specifically, other common health-related contaminants include bacteria, lead, manganese, nitrate, nitrite, and uranium. With respect to PFAS, since there are so many of these chemicals, it would probably be advisable to specify which ones should be included in the required test; NHDES suggests limiting it to the four for which NHDES has adopted drinking water standards – PFOA, PFOS, PFHxS, and PFNA.
- Paragraph II – There is no drinking water standard for radon. Consequently, as the bill is written, any treatment would not be required to address radon.
- Paragraph II – As written, the bill would require the landlord to install treatment. Since such systems do not work properly without proper maintenance, it might be advisable to consider making the landlord responsible for “installing and maintaining” a water treatment system

NHDES would be happy to work with the bill’s sponsors and with the Committee to address these issues. If the sponsors intend that NHDES would track compliance with the bill’s provisions, provide technical assistance to renters and landlords on water quality and treatment, and enforce these new requirements, the department would need additional resources and a fiscal note may be appropriate for this bill.

Thank you again for the opportunity to comment on HB 1120. Should you have further questions or need additional information, please feel free to contact either Paul Susca in the Drinking Water and Groundwater Bureau (paul.susca@des.nh.gov, 271-7061) or Sarah Pillsbury, Administrator of the Drinking Water and Groundwater Bureau, (sarah.pillsbury@des.nh.gov, 271-1168).

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of HB 1120: Representatives W. Thomas, DesMarais, Chase, Frost, Coursin, Stack, Eisner, DiLorenzo