



The State of New Hampshire  
**Department of Environmental  
Services**



**Robert R. Scott, Commissioner**

January 19, 2022

The Honorable Andrew Renzullo  
Chairman, House Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301

RE: HB 1185, AN ACT relative to treatment of water contaminated with perfluorinated chemicals

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on House Bill 1185. HB 1185 proposes legislation to allow wastewater treatment plants to require industrial or commercial facilities or septage haulers to test their discharge to determine PFAS levels and if levels are determined to be above what the wastewater treatment plant determines to be acceptable it may refuse to accept the discharge. The legislation also allows the municipality or other governmental entity owning or controlling the wastewater treatment plant to be able to fine discharge producers for exceeding levels deemed to be acceptable. The New Hampshire Department of Environmental Services (NHDES) has concerns with this bill.

First, RSA 149-I:6 already gives municipalities the authority to adopt ordinances and bylaws related to their wastewater treatment facility and appurtenances that “are required for proper maintenance and operation and to promote the objectives of the sewage system.” As well as the authority to fine “subject to a civil penalty not to exceed \$10,000 per day of such violation” to “any person who violates any ordinance or bylaw adopted....” Further, rules for local sewer use ordinances as outlined in Env-Wq 305 PRETREATMENT OF INDUSTRIAL WASTEWATER give any wastewater treatment plant the authority to have any industrial discharger of wastewater via sewer, and any hauled wastewater, to be tested for any pollutant they choose; and to reject or require pretreatment of the wastewater. Since this proposed legislation only gives optional authority (i.e. “may require”, “may refuse”) that already exists, there is no need for it. It is noted that if this legislation were to proceed, NHDES would recommend to revise “PFAS” to “any pollutant of concern.”

Second, there are logistical issues for septage haulers. Septage haulers typically have 3,000-gallon tank trucks. They will pump septage from two to three residences and then discharge the combined load to a wastewater treatment facility; generally, all in the same day. Septage haulers may make several trips

in one day. If the septage haulers had to test each individual house pumped, and or the combined load, they would need to either “hold their load” for the time it takes to receive sample results or discharge to an intermediary holding tank.

Finally, again, this legislation allows the municipality or other governmental entity owning or controlling the wastewater treatment plant to be able to fine discharge producers for exceeding levels deemed to be acceptable. NHDES feels more clarity needs to be provided on who is considered a “producer.” Is it the intent that individual homeowners would be considered a “producer” if their septage is above levels deemed to be acceptable, or commercial businesses, or septage haulers, or landfills who generate leachate, etc? NHDES would recommend that enforcement is only considered for any entity who has been notified they are discharging PFAS, and fails to eliminate that discharge, as applicable.

For general information, the committee should be aware that PFAS is a broad category of compounds. To date, New Hampshire has established Maximum Contaminant Levels (MCLs) and Ambient Groundwater Quality Standards (AGQS) for four PFAS compounds in state statute including Perfluorohexanesulfonic acid (PFHxS) 18 ng/L, Perfluorononanoic acid (PFNA) 11 ng/L, Perfluorooctanesulfonic acid (PFOS) 15 ng/L, and Perfluorooctanoic acid (PFOA) 12 ng/L. As there may be additional PFAS compounds of concern in the future, the flexibility that this legislation provides for a wastewater treatment facility to include additional PFAS compounds of concern is important.

The committee should also be aware that EPA Region 1 recently started issuing National Pollutant Discharge Elimination System (NPDES) permits requiring that the permittee conduct influent, effluent and sludge sampling for the four New Hampshire regulated PFAS compounds and annual sampling of certain industrial users as listed below. Sampling is to begin the first full calendar quarter beginning six months after EPA notifies the permittee that appropriate, multi-lab validated test methods are made available by EPA to the public. As summarized by EPA, the purpose of this monitoring and reporting requirement is to better understand potential discharges of PFAS from NPDES permitted facilities and to inform future permitting decisions, including the potential development of water quality-based effluent limits on a facility specific basis.

Annual sampling of the following types of industrial discharges to the wastewater treatment facility are included in NPDES permits:

- Commercial Car Washes
- Platers/Metal Finishers
- Paper and Packaging Manufacturers
- Tanneries and Leather/Fabric/Carpet Treaters
- Manufacturers of Parts with Polytetrafluoroethylene (PTFE) or teflon type coatings (i.e. bearings)
- Landfill Leachate
- Centralized Waste Treaters
- Contaminated Sites
- Fire Fighting Training Facilities
- Airports

- Any Other Known or Expected Sources of PFAS

Any facility that discharges directly to a surface water is required to obtain a federal permit, called a NPDES permit. EPA Region 1 administers this program for New Hampshire, as New Hampshire is a non-delegated state. However, NHDES must certify that the limitations and conditions contained in the NPDES permit will ensure that the proposed discharge will not violate any state law or regulation.

Thank you again for the opportunity to comment on this legislation. If you have questions or need additional information, please contact Tracy Wood, Administrator, Wastewater Engineering Bureau [tracy.l.wood@des.nh.gov](mailto:tracy.l.wood@des.nh.gov) or (603) 271-2001 or Rene Pelletier, Water Division Director, at [rene.pelletier@des.nh.gov](mailto:rene.pelletier@des.nh.gov) or (603) 271-2951.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott  
Commissioner

ec: Sponsors of HB 1185: Representatives Rung, Chretien, Cohen, Healey, Mooney, Meuse, Weston and Boyd.