



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



**Robert R. Scott, Commissioner**

January 30, 2023

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

**RE: HB 398, AN ACT relative to notice of PFAS and other groundwater contamination prior to the sale of real property**

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to testify on House Bill (HB) 398. This bill would require that:

- 1) Information using form language included in HB 398 be provided to buyers of homes about the potential occurrence of per- and polyfluoroalkyl substances (PFAS) in drinking water in New Hampshire; and
- 2) A seller of real property, which includes a building, disclose to the buyer if they have received notice from the New Hampshire Department of Environmental Services (NHDES) of groundwater contamination within 500 feet of the property.

NHDES supports the intent of HB 398 because it is critical that New Hampshire residents be educated about identifying and, if necessary, mitigating exposure to unsafe levels of contaminants in their drinking water. However, NHDES does not believe the aspect of the bill requiring the seller to disclose if they have received a notice of groundwater contamination within 500 feet of the property is the most effective approach for making a buyer aware of groundwater contamination because:

- 1) Property can change ownership and a current owner of the property may not have received a notice that a prior owner had received;
- 2) Groundwater and drinking water standards can change over time. If sampling of groundwater occurred at a time when standards were higher and the testing result did not exceed the standard at that time, a notice of contamination being present within 500 feet would have not been sent;
- 3) Private wells over a large area in southern New Hampshire have been invited to participate in a program to have their well sampled for PFAS at no cost due to widespread PFAS contamination in lieu of receiving notice of contamination within 500 feet of their property;
- 4) A notice of groundwater contamination is not required if naturally occurring contamination is detected above standards;

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- 5) Homeowners that have received a notification in the past may not relate the notification they received to the proposed new disclosure requirement; and
- 6) There is no mechanism to enforce the proposed disclosure requirement.

The only practical way for a person to determine if their private well has elevated levels of naturally occurring contamination is to test their well following the recommendations of NHDES. HB 205 which is also being considered by this committee, contains form language that would inform a person on how to properly test their drinking water supply for both naturally occurring contaminants and PFAS. If a person wants more information about the potential for PFAS or other manmade contamination for a given property, they can contact NHDES for this information or access data that is available on NHDES' website.

Thank you again for the opportunity to comment on HB 398. Should you have any questions or require more information, please contact Brandon Kernen, Administrator of the Drinking Water and Groundwater Bureau at 603-271-1168 or [Brandon.Kernen@des.nh.gov](mailto:Brandon.Kernen@des.nh.gov).

Sincerely,



Robert R. Scott  
Commissioner

ec: Sponsors of HB 398: Representatives W. Thomas and N. Murphy