



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 31, 2023

The Honorable Kevin Avard, Chair
Senate Energy and Natural Resources Committee
State House, Room 103
Concord, NH 03301

RE: SB 123, AN ACT relative to the adoption of ambient groundwater quality standards by the department of environmental services.

Dear Chair Avard and Members of the Committee:

Thank you for the opportunity to testify on SB 123. This bill would amend the language of RSA 485-C:6 relative to how the New Hampshire Department of Environmental Services (NHDES) sets ambient groundwater quality standards, in order to address inconsistencies in the current law. This bill is a request of NHDES and we strongly support its passage.

The purpose of RSA Chapter 485-C, the Groundwater Protection Act is to protect the natural quality of the state's groundwater resource by, among other things, establishing procedures and standards for remediation of groundwater. RSA 485-C:6 sets out criteria for the establishment and adoption of ambient groundwater quality standards (AGQS) that apply to all regulated contaminants from human operations or activities. AGQS form the basis for NHDES' regulatory authority to address groundwater contamination and inform NHDES' oversight of the investigation and remediation of contaminated sites.

This bill seeks to amend the language in RSA 485-C:6 because, as currently written, it includes internal inconsistencies regarding how NHDES must establish AGQS. For example, it states that AGQS shall be "equivalent to" any state maximum contaminant level ("MCL") but also states that AGQS shall be "at least as stringent" as any federal health advisory. This is not possible if the State MCL is less stringent than the federal health advisory. We anticipate that this circumstance may present itself with the upcoming proposal by USEPA of a federal MCL for several PFAS chemicals. For example, when USEPA issues their proposed MCL for PFOA, they will also likely finalize their current interim health advisory for PFOA. For several important reasons, the proposed MCL is likely to be three orders of magnitude higher than the health advisory. NHDES' drinking water program will likely adopt that federal MCL as a State MCL. This would expose the inconsistency in the current law and put NHDES in a quandary as to whether to adopt the State MCL or the new final health advisory. This bill would address this inconsistency, while retaining for the commissioner the discretion to adopt AGQS based upon a federal health advisory when circumstances warrant.

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Thank you again for the opportunity to provide testimony in support of SB 123. 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 me.

Sincerely,

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

Robert R. Scott
Commissioner

ec: Sponsors of SB 123: Senators Watters, Perkins Kwoka, Gray, Avard, Altschiller, Representatives Notter, Rung, Healey, W. Thomas