



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

April 11, 2023

The Honorable Andrew Renzullo
Chair, House Resources, Recreation, and Development Committee
Legislative Office Building, Room 305
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 Renzullo and Members of the Committee:

Thank you for the opportunity to testify on SB 123, as amended by the Senate. 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 recent proposal by USEPA of a federal MCL for several PFAS chemicals. For example, USEPA has recently issued a proposed MCL for PFOA that is three orders of magnitude higher than the current interim health advisory for PFOA. USEPA has reported that it expects to make this proposed MCL final by early 2024. Federal MCLs are typically adopted as State MCLs under NHDES' drinking water program. We anticipate that USEPA will also act in the future to finalize the health advisory for PFOA. 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 as the AGQS for PFOA. This bill would address

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this inconsistency, while retaining for the commissioner the discretion to adopt AGQS based upon a federal health advisory when circumstances warrant.

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, (603) 271-1997, or me at robert.r.scott@des.nh.gov, (603) 271-2958.

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