



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



**Robert R. Scott, Commissioner**

February 24, 2021

The Honorable Kevin Avard  
Chairman, Energy and Natural Resources Committee  
State House, Senate Chamber  
Concord, NH 03301

**RE: SB 146-FN (Part I)– Establishing the coastal program administered by the Department of Environmental Services.**

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to comment on SB 146-FN, Part I. This section of the bill proposes to create a state authorization for the federally-funded coastal program administered by the New Hampshire Department of Environmental Services (NHDES) and establishes a dedicated coastal fund. NHDES supports this legislation.

In 1972, Congress passed the Coastal Zone Management Act (CZMA) in recognition of the importance of the nation's coastal resources. The NHDES Coastal Program (NHDES-CP) gained federal approval in 1982. However, the program was never authorized under state law. It exists only as a grant-funded federal program. State authorization is needed to: 1) ensure that state law backs up any potential changes to federal law, and 2) more closely align federal consistency provisions with state regulations.

The NHDES Coastal Program provides funding and staff assistance to towns and cities, and other local and regional groups who protect clean water, restore coastal habitats, and help make communities more resilient to flooding and other natural hazards. The NHDES-CP supports the region's economy by helping to preserve the environmental health of the coast and Great Bay and Hampton-Seabrook estuaries for fishing and shell fishing, and assisting with the maintenance of our ports, harbors and tidal rivers for commercial and recreational uses.

Importantly, the NHDES-CP is charged with implementing Section 307 of the CZMA, known as the federal consistency provision, which is the formal mechanism to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies. The NHDES-CP administers the federal consistency review process to ensure that all federal activities affecting any land or water use, or natural resource in New Hampshire's coastal zone (map attached) will be conducted in a manner consistent with the NHDES-CP's enforceable policies. These policies are essentially other state laws and regulations that fall within state jurisdiction. Federal consistency is the tool that requires federal agencies pay attention to state concerns.

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Federal consistency review could prove to be a critical tool as applied to offshore wind development in federal waters. Given the recent creation of the Gulf of Maine Offshore Wind Task Force, now is the right time to authorize the coastal program. This bill has the added benefit of solidifying the link between the National Oceanic and Atmospheric Administration's (NOAA) approved program, the enforceable policies (state laws and regulations), and the coastal program at NHDES as the lead state agency for CZMA issues. This bill alleviates legal uncertainty of NHDES federal consistency authority by codifying it in state statute to ensure that the state has the ability to defend decisions regarding federal actions in the coastal zone.

Given the depth of services provided to NH's coastal communities, the NHDES-CP often seeks additional funds to meet critical natural resource management needs, and has been successful at garnering competitive grants. NOAA reviews the NHDES-CP every five years. One consistent finding by NOAA in these reviews is the need for state and other financial resources to help address the coastal communities' management needs. If funds are obtained in the future, this fund will provide a mechanism to administer the funds for the state's coastal management priorities.

Thank you again for the opportunity to comment on SB 146-FN, Part I. Should you have questions or need additional information, please feel free to contact Steve Couture, NHDES Water Division, Coastal Program Administrator, at [steven.couture@des.nh.gov](mailto:steven.couture@des.nh.gov) or 271-8801.

Sincerely,



Robert R. Scott  
Commissioner

Attachments: Coastal Zone Map  
NH Coastal Management Fact Sheet

cc: Sponsors of SB 146 (Part I): Senators Watters, Sherman, Perkins Kwoka, Gray, Gannon  
Representatives Spang, Edgar

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