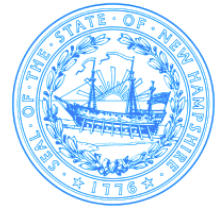




The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

April 10, 2023

The Honorable Andrew Renzullo
Chair, House Resources, Recreation and Development Committee
LOB, Room 305
Concord, NH 03301

RE: SB 229, An Act relative to administration of certain wetlands permits by the department of environmental services

Dear Chair Renzullo and Members of the Committee:

Thank you for the opportunity to testify on SB 229. The New Hampshire Department of Environmental Services (NHDES) supports this bill, as amended by the Senate, because it fixes several small issues in the statutes for land resource permitting programs that create ambiguity or difficulty for applicants during permitting.

Parts 1 and 2 of the bill pertain to the Alteration of Terrain Program. This program regulates stormwater management for large development projects. When an applicant needs to make a change to a project that has already been permitted by NHDES, they can file for an amendment. The fee for this amendment should be based on the area of disturbance associated with the amendment, not the total area of disturbance of the original project. The statute is not clear on this fact and the proposed change would affirmatively state that it is the former, which saves money for applicants. Also, the statute does not allow NHDES to give applicants time extensions to add information to the file. The proposed change would make this option available to applicants.

Part 3 of the bill pertains to the Wetlands Program. The reason for this change is that occasionally people submit applications to do work on a parcel of land that straddles the boundary between two towns. The statute currently requires the applicant to file an application with the town clerks of both towns. The proposed change would make it so that the applicant must only get a signature from the municipality where the actual wetland impacts occur.

Part 4 of the bill pertains to the permitting of septic systems by the Subsurface Systems Bureau. RSA 485-A:33 allows owners of residential properties with state-approved septic systems to replace the system using the original, approved design if the system fails. These property owners do not need to pay for a new design or have the original design reviewed by NHDES, which saves them time and money. They can also start the work immediately upon receipt of the permit by rule from NHDES.

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Septic system designers and installers have been encountering problems with the statute as written. First, the statute was intended to apply only to single-family residential systems, but the statute says it applies if the “existing system receives only domestic sewage.” This ambiguity can lead people to try to use the process for apartment buildings that have much larger systems that should be reviewed by a designer if they fail. Apartment buildings can also have multiple owners which complicates decisions on shared septic systems. The proposed change would clarify the eligibility for this process to be specifically single-family residences with up to one associated accessory dwelling unit if it is included on the state-approved plan. Second, homeowners can run into problems if they use this process to replace the septic system but later find that they do not have the prior state approvals and associated plans. If these documents cannot be produced, NHDES will not be able to approve the new system. In this situation, the homeowner would need to go through the full permitting process with NHDES for a new system. This adds cost and time during which the residence does not have a functioning septic system. This bill would solve this problem by requiring the prior state approvals and approved plan be submitted with the application. The bill also adds some flexibility as to the source of the approved plan. If the approved plan cannot be found in the state or town archives, the designer who prepared the original plan can provide it.

In conclusion, NHDES supports this bill. It will fix multiple small issues in the statutes regarding permitting processes to benefit people seeking permits from NHDES. These fixes are purely administrative. They do not reduce environmental protections, nor will they incur additional costs to the state.

Thank you again for the opportunity to comment on SB 229. Should you have questions or need additional information, please feel free to contact either Philip Trowbridge, Administrator of the Land Resources Management Program (Philip.R.Trowbridge@des.nh.gov, 271-4898) or Rene Pelletier, Director of the Water Division (Rene.J.Pelletier@des.nh.gov, 271-0677).

Sincerely,



Robert R. Scott
Commissioner

ec: Sponsor of SB 229: Senator Bradley