



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 310, AN ACT requiring developers to secure hydrology analysis certifying adequate water capacity and potability when building new subdivisions

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to testify on House Bill (HB) 310. This bill would require certain hydrological analyses by developers planning to build more than four houses in a proposed subdivision to: 1) ensure there is an adequate water supply; and 2) assess the occurrence of per and polyfluoroalkyl substances (PFAS). The New Hampshire Department of Environmental Services (NHDES) has some concerns with HB 310 as introduced, but recognizes this bill provides an opportunity for an important discussion about state and local options to ensure new developments have an adequate quantity and quality of water. NHDES' comments on HB 310 are attached to this letter. Given the complexity and importance of this topic, additional study and collaboration among interested stakeholders may be warranted before proceeding with the legislation as proposed.

Thank you again for the opportunity to comment on HB 310. 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.

Sincerely,

Robert R. Scott
Commissioner

ec: Sponsors of HB 310: Representatives McGhee, Grill and Spier

NHDES Comments on HB 310 – January 30, 2023

- 1) HB 310 would require a hydrologic analysis be included under statutes pertaining to realty conveyances instead of public health or land use regulations. Existing statutes regarding municipal authority to adopt regulations pertaining to subdivision, site plan review and public health enable municipalities to address water supply and public health issues. Some of these statutes could be modified to clarify or fortify this authority. Staff of NHDES have provided the sponsor of HB 310 with a summary of these statutes and possible modifications that could achieve the intent of HB 310.
- 2) HB 310 would require that the hydrologic analysis regarding water quantity be completed anywhere in the state when a subdivision of property occurs to build more than four houses. In NHDES' experience, the need to complete this type of study is isolated to localized areas in a few municipalities of the state at this time and a statewide requirement is not warranted. The studies that would be required by HB 310 would be costly for the developer to complete. Therefore, it is important that local land use regulations only require these types of studies when and where circumstances warrant so.
- 3) The studies that would be required by HB 310 are too technically specialized for most local officials to review without receiving assistance from third-party experts in the subject matter. Ensuring that municipalities can recoup the costs of retaining third-party experts to assist in a technical review is an important consideration.
- 4) The requirements of HB 310 would require that the water supply study include an assessment of the levels of PFAS. PFAS in the drinking water of New Hampshire is a serious issue and there is a need to sample all private wells for PFAS and implement mitigation measures as necessary to eliminate exposure to unsafe levels. NHDES believes the cost of testing and implementing mitigation measures should be borne by the entities responsible for the contamination. Unless resources from parties that are responsible for the contamination are available, this issue may be more appropriately addressed using existing programs that educate homeowners about the importance of testing their private wells and installing treatment when necessary to meet state standards for PFAS and other contaminants. Enhancing education and private well testing requirements as proposed in HB 205 of this legislative session may be a mechanism to achieve the intent of this aspect of HB 310.