

**REGULAR CALENDAR**

**October 26, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Resources, Recreation and  
Development to which was referred HB 1440,**

**AN ACT relative to surface water quality standards for  
perfluorinated chemicals. Having considered the same,  
report the same: NOT RECOMMENDED FOR FUTURE  
LEGISLATION.**

**Rep. Robert Harb**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Resources, Recreation and Development</b>
Bill Number:	<b>HB 1440</b>
Title:	<b>relative to surface water quality standards for perfluorinated chemicals.</b>
Date:	<b>October 26, 2022</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>NOT RECOMMENDED FOR FUTURE LEGISLATION</b>

### STATEMENT OF INTENT

In testimony, the NH Department of Environmental Services stated this bill is unnecessary as the Department is completing rules that the bill requests. Further, the committee heard testimony that the EPA is already undertaking a major initiative to study the effects of PFAS on aquatic organisms which is similar to another effort proposed in this bill.

Vote 16-0.

Rep. Robert Harb  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## **REGULAR CALENDAR**

Resources, Recreation and Development

**HB 1440**, relative to surface water quality standards for perfluorinated chemicals.**NOT RECOMMENDED FOR FUTURE LEGISLATION .**

Rep. Robert Harb for Resources, Recreation and Development. In testimony, the NH Department of Environmental Services stated this bill is unnecessary as the Department is completing rules that the bill requests. Further, the committee heard testimony that the EPA is already undertaking a major initiative to study the effects of PFAS on aquatic organisms which is similar to another effort proposed in this bill. **Vote 16-0.**

Original: House Clerk  
Cc: Committee Bill File

## Heather Goley

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**From:** Andrew Renzullo  
**Sent:** Wednesday, October 26, 2022 1:41 PM  
**To:** Heather Goley  
**Subject:** Interim Study Report for HB1440

HB 1440: Relative to Surface water quality standards

Representative Harb for Resources, Recreation and Development. In Testimony, the NH Department of Environmental Services stated this bill is unnecessary as the Department is completing rules that the bill requests. Further, the committee heard testimony that the EPA is already undertaking a major initiative to study the effects of PFAS on aquatic organisms which is similar to another effort proposed in this bill.

Recommendation: Not to Recommend for Future Legislation 16-0

**HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT**

**EXECUTIVE SESSION on HB 1440**

**BILL TITLE:** relative to surface water quality standards for perfluorinated chemicals.

**DATE:** October 19, 2022

**LOB ROOM:** 305 - 307

**MOTION:**

Interim Study (2nd yr)      Not Recommended for Future Legislation

Moved by Rep. Harb

Seconded by Rep. Creighton

Vote: 16-0

Respectfully submitted,

Rep Juliet Harvey-Bolia, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 1440

**BILL TITLE:** relative to surface water quality standards for perfluorinated chemicals.

**DATE:** 10/19/22

**LOB ROOM:** 305 - 307

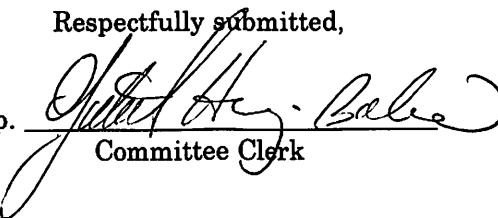
**MOTION:**  Recommended for Future Legislation

Not Recommended for Future Legislation

Moved by Rep. Harb      Seconded by Rep. Creighton      Vote: 16-0

Respectfully submitted,

Rep.

  
Committee Clerk



2022 SESSION

Resources, Recreation and Development

Bill #: 1440 Motion: NOT Recommended AM #: \_\_\_\_\_ Exec Session Date: 10/19/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Renzullo, Andrew Chairman	✓		
Harb, Robert D. Vice Chairman	✓		
Hough, Gregg	✓		
Gould, Linda R.	✓		
Horgan, James F.	✓		
Creighton, Jim L.	✓		
Dodge, Dustin	✓		
Harvey-Bolia, Juliet Clerk	✓		
Healey, Robert V.	✓		
Mayville, Mary L.	✓		
Post, Lisa C.M.	✓		
Smith, Suzanne J.	✓		
Spang, Judith T.			✓
Grassie, Chuck W.	✓		
Gottling, Suzanne H.	✓		
Cohen, Bruce L.	✓		
Connors, Erika F.			✓
Vail, Suzanne M.	✓		
Kelley, Eamon P.			✓
Moran, Melbourne R.			✓
Egan, Timothy T.			✓

16      0      5

Andy!

# CONSENT CALENDAR

February 14, 2022

## HOUSE OF REPRESENTATIVES

### REPORT OF COMMITTEE

The Committee on Resources, Recreation and Development to which was referred HB 1440,

AN ACT relative to surface water quality standards for perfluorinated chemicals. Having considered the same, report the same with the recommendation that the bill be REFERRED FOR INTERIM STUDY.

**Rep. Jim Creighton**

**FOR THE COMMITTEE**



## COMMITTEE REPORT

Committee:	<b>Resources, Recreation and Development</b>
Bill Number:	<b>HB 1440</b>
Title:	<b>relative to surface water quality standards for perfluorinated chemicals.</b>
Date:	<b>February 14, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>REFER FOR INTERIM STUDY</b>

### STATEMENT OF INTENT

This bill is an act relative to quality standards for certain perfluorinated chemicals in the surface waters of the state. The bill addresses the safety of surface water due to contamination from perfluorooctanoic acid (PFOA), perfluorooctanoic sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA). The committee is determined to ensure that the surface waters in New Hampshire remain clean and safe. The Department of Environmental Services (DES) has been conducting a detailed analysis of surface waters and testified that the chemicals highlighted in this bill will be addressed in their report. DES will take appropriate action when the analysis is complete. The committee believes that our interim study recommendation will allow this bill to be informed by the results of the DES analysis.

Vote 20-0.

Rep. Jim Creighton  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Resources, Recreation and Development

**HB 1440**, relative to surface water quality standards for perfluorinated chemicals. **REFER FOR INTERIM STUDY.**

Rep. Jim Creighton for Resources, Recreation and Development. This bill is an act relative to quality standards for certain perfluorinated chemicals in the surface waters of the state. The bill addresses the safety of surface water due to contamination from perfluorooctanoic acid (PFOA), perfluorooctanoic sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA). The committee is determined to ensure that the surface waters in New Hampshire remain clean and safe. The Department of Environmental Services (DES) has been conducting a detailed analysis of surface waters and testified that the chemicals highlighted in this bill will be addressed in their report. DES will take appropriate action when the analysis is complete. The committee believes that our interim study recommendation will allow this bill to be informed by the results of the DES analysis. **Vote 20-0.**

Original: House Clerk

Cc: Committee Bill File

## Heather Goley

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**From:** Andrew Renzullo  
**Sent:** Saturday, February 12, 2022 10:48 PM  
**To:** Heather Goley  
**Subject:** Blurb for HB1440

Hi Heather,  
This is a blurb from the executive session of 2/9/2020,

Andy

-----  
HB 1440 – Relative to surface Water Quality Standards for Perflourinated Chemicals  
Submitted By: Jim Creighton  
Vote: Interim Study 21-0  
Calendar: Consent

HB 1440 is an act relative to quality standards for certain perfluorinated chemicals in the surface waters of the state. The bill addresses the safety of surface water due to contamination from Perfluorooctanoic acid (PFOA), perfluorooctanoic sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA). The committee is determined to ensure that the surface waters in New Hampshire remain clean and safe. The Department of Environmental Services has been conducting a detailed analysis of surface waters and testified that the chemicals highlighted in HB1440 will be addressed in their report. The Department of Environmental Services will take appropriate action when the analysis is complete. The committee believes that an Interim Study will allow HB1440 to be informed by the results of the Department of Environmental Services analysis. The Resources, Recreation and Development committee recommends Interim Study by a vote of 21 – 0.

**HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT**

**EXECUTIVE SESSION on HB 1440**

**BILL TITLE:** relative to surface water quality standards for perfluorinated chemicals.

**DATE:** February 9, 2022

**LOB ROOM:** 305 - 307

**MOTIONS:** REFER FOR INTERIM STUDY

Moved by Rep. Creighton

Seconded by Rep. Harb

Vote: 20-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Juliet Harvey-Bolia, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 1440

BILL TITLE: relative to surface water quality standards for perfluorinated chemicals.

DATE: 2-9-22

LOB ROOM:

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1<sup>st</sup> year)
- Interim Study (2nd year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)

Moved by Rep. Creighton Seconded by Rep. Harb Vote: 20-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1<sup>st</sup> year)
- Interim Study (2nd year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1<sup>st</sup> year)
- Interim Study (2nd year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

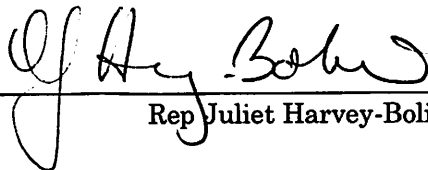
MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1<sup>st</sup> year)
- Interim Study (2nd year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

CONSENT CALENDAR:  YES  NO

Minority Report?  Yes  No If yes, author, Rep: \_\_\_\_\_ Motion: \_\_\_\_\_

Respectfully submitted:   
Rep Juliet Harvey-Bolia, Clerk



2022 SESSION

Resources, Recreation and Development

Bill #: 1440 Motion: interim Study AM #: \_\_\_\_\_ Exec Session Date: 2-9-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Renzullo, Andrew Chairman	✓		
Harb, Robert D. Vice Chairman	✓		
Hough, Gregg	✓		
Gould, Linda R.	✓		
Horgan, James F.	✓		
Creighton, Jim L.	✓		
Dodge, Dustin	✓		
Harvey-Bolia, Juliet Clerk	✓		
Healey, Robert V.	✓		
Mayville, Mary L.	✓		
Post, Lisa C.M.	✓		
Smith, Suzanne J.	✓		
<del>Spang, Judith T.</del> <u>Perez</u>	✓		
Grassie, Chuck W.	✓		
Gottling, Suzanne H.	✓		
Cohen, Bruce L.	✓		
Connors, Erika F.	✓		
Vail, Suzanne M.	✓		
Kelley, Eamon P.	✓		
<del>Moran, Melbourne R.</del> <u>Jack</u>	✓		
Egan, Timothy T. <u>NOT PRESENT</u>			

20 0

**HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT**

**PUBLIC HEARING ON HB 1440**

**BILL TITLE:** relative to surface water quality standards for perfluorinated chemicals.

**DATE:** January 26, 2022

**LOB ROOM:** 305 - 307                      **Time Public Hearing Called to Order:** 3:30 p.m.

**Time Adjourned:** 4:10 p.m.

**Committee Members:** Reps. Renzullo, Harb, Hough, Gould, Creighton, Dodge, Healey, Mayville, Post, Suzanne Smith, Gottling and Cohen

**Bill Sponsors:**

Rep. Grassie  
Rep. Meuse

Rep. Rung  
Rep. Tucker

Rep. Andrew Bouldin  
Rep. Paige

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Bruce Cohen** introduced the bill.

\***Ted Diers, NH DES** spoke in opposition. DES is already writing the water quality standards. The process laid out in the bill is not straightforward because it's based on fish consumption and DES would have to develop the standard from scratch. The EPA is developing the science and guidance that speaks to this issue at this moment. DES is not entirely sure how the PFAS is getting into the fish because in some cases the fish are contaminated in waters that have no detectable PFAS. Also, the PFAS compounds detected in the fish may not be the same PFAS compounds found in surrounding waters. More study is needed.

Surface waters have nine different standards unlike drinking water.

\***Boyd Smith NH Water Works Association**, spoke in opposition to the bill.

Respectfully submitted,

Rep. Juliet Harvey-Bolia  
Clerk





Resources, Recreation and Development PUBLIC HEARING

Wednesday, 1/26/22 Legislative Office Building 305-307

HB 1440 relative to surface water quality standards for perfluorinated chemicals.

Rep. Cohen introduced the bill.

Ted Diers, NH DES spoke in opposition. DES is already writing the water quality standards. The process laid out in the bill is not straightforward because it's based on fish consumption and DES would have to develop the standard from scratch. The EPA is developing the science and guidance that speaks to this issue at this moment. DES is not entirely sure how the PFAS is getting into the fish because in some cases the fish are contaminated in waters that have no detectable PFAS. Also, the PFAS compounds detected in the fish may not be the same PFAS compounds found in surrounding waters. More study is needed.

Surface waters have nine different standards unlike drinking water.

Boyd Smith NH Drinking water, spoke in opposition to the bill.



The New Hampshire  
**House of Representatives**

## HOUSE OF REPRESENTATIVES - ONLINE TESTIMONY SUBMISSIONS

House Resources, Recreation and Development ▼

HB1440 ▼

**Support: 51 | Oppose: 3 | Neutral: 1**

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
David Packard, LMAC Chair	Geoffstown	NH	Oppose	<a href="#">View PDF</a>	
Michele L. Tremblay, RMAC Chair	Penacook	NH	Oppose	<a href="#">View PDF</a>	
Natch Greyes	Concord	NH	Oppose	<a href="#">View PDF</a>	
BARBARA Pugh	Amherst	NH	Support		
Bruce Berk	Pittsfield	NH	Support		
Caroline Moulton	Andover	NH	Support		
Charles DePuy	Lebanon	NH	Support		
David Doherty	Pembroke	NH	Support		
Dawna Pidgeon	Enfield	NH	Support		
Dianne Schuett	Pembroke	NH	Support		
Donald Bouchard	MANCHESTER	NH	Support		
Elizabeth Lewis	Nashua	NH	Support		
Elizabeth Ropp	Manchester	NH	Support		
Ellis Robinson	Grantham	NH	Support		
Eric Loveless	bedford	NH	Support		
Gisela Darling	Andover	NH	Support		
Heidi Hamer	Manchester	NH	Support		
Jane Crandell-Glass	Cornish	NH	Support		
Janet Lucas	Campton	NH	Support		
Jean Brown	HANOVER	NH	Support		
Joan Hamblet	Portsmouth	NH	Support		

<b><u>Name</u></b>	<b><u>Town</u></b>	<b><u>State</u></b>	<b><u>Position</u></b>	<b><u>Attachment</u></b>	<b><u>Typed</u></b>
<b>John Tuthill</b>	Acworth	NH	Support		
<b>Jon Swan</b>	Dalton	NH	Support		
<b>Jonathan Glass</b>	Cornish	NH	Support		
<b>Julie Gilman</b>	Exeter	NH	Support		
<b>Karen Campbell</b>	Epsom	NH	Support		
<b>Katherine Tucker</b>	Wilmot	NH	Support		
<b>Katie Aman</b>	Hanover	NH	Support		
<b>Ken Wells</b>	Andover	NH	Support		
<b>Kent Hackmann</b>	Andover	NH	Support		
<b>Laura Aronson</b>	MANCHESTER	NH	Support		
<b>Laurene Allen</b>	Merrimack	NH	Support		
<b>Lee Oxenham</b>	Plainfield	NH	Support		
<b>Linda Douville</b>	Grantham	NH	Support		
<b>Margaret Bowles</b>	Lyme	NH	Support		
<b>maria perez</b>	milford	NH	Support		
<b>Marie Nardino</b>	Andover	NH	Support		
<b>Mary Hakken-Phillips</b>	Hanover	NH	Support		
<b>Mary Raven</b>	Merrimack	NH	Support		
<b>Michael Fraysse</b>	Epsom	NH	Support		
<b>micheal sciarappa</b>	bedford	NH	Support		
<b>Nancy Smith</b>	Enfield	NH	Support		
<b>Robert French</b>	Littleton	NH	Support		
<b>Roger Dontonville</b>	Enfield	NH	Support		
<b>Roger Doucette</b>	Whitefield	NH	Support		
<b>Russan Chester</b>	Bedford	NH	Support		
<b>Safiya Wazir</b>	Concord	NH	Support		
<b>Sally Findley</b>	Grantham	NH	Support		
<b>sarah doucette</b>	Whitefield	NH	Support		
<b>Steve Clifton</b>	Sandown	NH	Neutral		
<b>Susan Moore</b>	Franconia	NH	Support		
<b>Susan Richman</b>	Durham	NH	Support		

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
Tom Irwin	Concord	NH	Support		
Vivian Dolkart	Grantham	NH	Support		
Wendy Chase	Rollinsford	NH	Support		



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



Robert R. Scott, Commissioner

January 25, 2022

The Honorable Andrew Renzullo  
Chairman, House Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301

RE: HB 1440 – AN ACT relative to surface water quality standards for perfluorinated chemicals.

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on HB 1440. This bill requires the New Hampshire Department of Environmental Services (NHDES) to create rules and adopt surface water quality standards for a number of perfluorinated chemicals. The Department is opposed to this bill.

Because of concerns relative to the quality of surface waters, the legislature amended RSA 485-A:8 which required NHDES to develop a plan to establish surface water quality standards for four per- and polyfluoroalkyl substances (PFAS). The resultant document “Plan to Generate PFAS Surface Water Quality Standards – 2020” led to the current effort to take an important step in the adoption of PFAS standards. Based on that plan and Clean Water Act (CWA) triennial review requirements, NHDES is now preparing rules which incorporate the maximum contaminant levels (MCLs) that were developed for drinking water (Perfluorooctanoic acid (PFOA), 12 parts per trillion; Perfluorooctanesulfonic acid (PFOS), 15 parts per trillion; Perfluorohexanesulfonic acid (PFHxS), 18 parts per trillion; Perfluorononanoic acid (PFNA), 11 parts per trillion). These MCLs will be incorporated into administrative rule Env-Wq 1700 and are anticipated to be enacted by the fall of 2022. As such, Part 1, II-b. of this bill will be adequately covered by administrative rules such that statutory language is unnecessary.

Our primary concern with the bill relates to the new section RSA 485-A:8, II-b which would require the agency to initiate rulemaking to create water quality standards for those same four PFAS chemicals that will “ensure water concentrations will support the safety of fish and shellfish for human consumption as well as water that is safe for human consumption.” The bill discusses the issue of bioaccumulation factors (BAFs) related to the section above. There appears to be a misunderstanding about the current status of the science of bioaccumulation factors as they relate to surface waters and fish consumption. To be very clear, BAFs are NOT yet fully understood for these parameters. While there are certainly BAFs directly related to humans eating fish, there are no BAFs developed to translate the amount of PFAS in the surface water to a safe level to consume in fish. In the NHDES 2020 PFAS Plan, the cost to develop those BAFs was estimated at \$75,000 to \$741,000 depending on whether existing literature values are available or if State specific BAFs are needed. Given the types of fish that are eaten, the chemical and physical

[www.des.nh.gov](http://www.des.nh.gov)

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
(603) 271-3503 • Fax: 271-2867 TDD Access: Relay NH 1-800-735-2964

The Honorable Representative Renzullo  
Chairman, House Resources, Recreation and Development Committee  
January 25, 2022  
Page 2

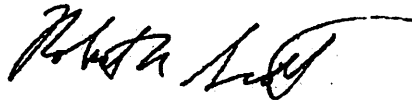
conditions of the water (e.g. the pH and dissolved oxygen), and other factors, the BAFs can be highly variable between parts of the country and world, further complicating their creation and applicability.

The New Hampshire water surface water quality standards for toxic chemicals are all based on EPA guidance. The so-called Clean Water Act section "304(a) guidance" is a highly vetted set of scientific analyses and recommendations that are developed by EPA. These recommendations are peer-reviewed and open for public comment prior to adoption and are used to both assist the states and to create a level of national consistency. Presently, there is no EPA 304(a) guidance for PFAS compounds and NHDES has never created a surface water criterion for toxics. EPA is planning to release human health PFOA and PFOS criteria for public comment in 2023. As noted above, the Clean Water Act requires triennial review of water quality standards and approval of any changes before those standards can be used for any CWA purposes. Given the timeline to go through the full State rulemaking as well as EPA review and approval, surface water quality standards are always in a state of perpetual review and rulemaking. Turning that into an annual review, as the bill proposes, generates a new and unnecessary burden, especially since the time needed to analyze new scientific data on an annual basis would be considerable. Given the high potential cost to the department for the development of BAFs and the annual reporting requirement, we recommend that this bill have a fiscal note.

Finally, the timeframes in the bill are unworkable given current staffing levels. It would not be possible to develop robust, scientifically sound BAFs and initiate rulemaking by September 1, 2022.

Thank you again for the opportunity to comment on HB 1440. Should you have questions or need additional information, please feel free to contact either Ted Diers, Watershed Management Bureau Administrator, at 603-271-3289 or [ted.diers@des.nh.gov](mailto:ted.diers@des.nh.gov), or Rene Pelletier, Water Division Director at (603) 271-2951 or [rene.pelletier@des.nh.gov](mailto:rene.pelletier@des.nh.gov).

Sincerely,



Robert R. Scott  
Commissioner

ec: Sponsors of HB 1440: Representatives Cushing, Grassie, Rung, Bouldin, Meuse, Tucker and Paige.



Voting Members:

David Packard  
Chair  
NH Lakes Assn.

Shane Bradt  
Scientific Community

Ryan Cardella  
Marine Trades  
Association

Tiffany Grade  
Conservation  
Community

Sara Holland  
NH Association of  
Realtors

Janet Kidder  
Planning Boards

Frank Lemay  
NH BIA

Jared Maraio  
NH Travel Council

Lisa Morin  
State Conservation  
Committee

Dick Smith  
Fishing Interests

Meredith Smith  
Municipal Official

Bruce Temple  
NH Fish & Game  
Commission

Vacant  
Conservation  
Commissions

Non-Voting Members:

Garret Graaskamp  
Vice Chair  
NH Fish & Game Dept.

Capt. Tim Dunleavy  
NH Dept. of Safety

Eric Feldbaum  
NH Dept. of Natural and  
Cultural Resources

Jennifer Gilbert  
NH Office of Strategic  
Initiatives

Mark Hemmerlein  
NH Dept. of Trans.

Shawn Jasper  
NH Dept. of  
Ag, Markets & Food

Staff:

Tracie Sales  
Program Manager

Nisa Marks  
Program Assistant

Vacant  
Watershed Coordinator

N.H. Lakes Management and Protection Program  
**N.H. Lakes Management Advisory Committee**

January 26, 2022

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

**RE: HB 1440 - AN ACT relative to surface water quality standards for perfluorinated chemicals.**

Dear Chair Renzullo and Members of the Committee:

RSA 483-A established the New Hampshire Lakes Management and Protection Program and the Lakes Management Advisory Committee (LMAC) to complement and reinforce existing state and federal water quality laws. Within its responsibilities of advising the NHDES Commissioner and the department, the LMAC reviews and takes positions on legislation pertaining to New Hampshire's lakes. The LMAC appreciates the opportunity to comment on House Bill 1440.

**The LMAC opposes HB 1440.** Work is already underway by NHDES to set PFAS standards for surface waters, so requiring the first rulemaking task in this bill is unnecessary. The second rulemaking task is impractical because there are not adequate data at this point to accomplish it. We strongly believe that safe water quality standards must be based on scientific information. At present, we are not aware of sufficient science to translate the amount of PFAS present in the water column into the amount present in fish or shellfish from that water. Therefore, safe limits for human consumption are impossible to establish regardless of a mandate to do so.

The LMAC is a legislatively created body of lake stakeholders, representing the NH Lakes Association, conservation commissions, the scientific community, conservation community, planning boards, Business and Industry Association, tourism industry, state conservation committee, NH Municipal Association, fishing interests, NH Fish & Game Commission, NH Association of Realtors, Marine Trades Association, and several state agencies. Committee members are appointed by the Governor and Council or the head of the state agency and are charged with supporting the legislative intent of the Lakes Management and Protection Program.

**In conclusion, the LMAC opposes HB 1440 for the reasons stated above.** Thank you for the opportunity to comment. Should you have questions, please feel free to contact me at (603) 867-9299 or [appliedforce52@gmail.com](mailto:appliedforce52@gmail.com).

Respectfully,



David Packard, Chair

ec: Rep.s Cushing, Grassie, Rung, Bouldin, Meuse, Tucker, and Paige  
LMAC Representatives  
Robert R. Scott, Commissioner, NHDES  
Ted Diers, Administrator, Watershed Mgmt. Bur., NHDES  
Tracie Sales, Rivers and Lakes Programs Manager, NHDES



Voting Members:

Michele L. Tremblay  
Chair  
Conservation  
Community

Larry T. Spencer  
Vice Chair  
Conservation  
Commissions

Victoria Bunker  
Historic/Archeological  
Interests

Christopher Hodgdon  
NH Fish & Game  
Commission

Frederick J. McNeill  
Municipal Officer

Madeleine Mineau  
Granite State  
Hydropower  
Association

Robert M. Roseen  
Recreational Interests

Ruth Ward  
Local River Management  
Advisory Committees

Donald L. Ware  
Public Water Suppliers

Vacant  
Agricultural Community

Vacant  
Business & Industry  
Association

Non-Voting Members:

Peter Bowman  
NH Department of  
Natural and Cultural  
Resources

Brian Eaton  
NH Department of  
Safety

Jennifer Gilbert  
NH Office of  
Strategic Initiatives

Mark Hemmerlein  
NH Department of  
Transportation

Shawn Jasper  
NH Department of  
Agriculture,  
Markets & Food

John Magee  
NH Fish & Game  
Department

Staff:

Tracie Sales  
Program Manager

Nisa Marks  
Program Assistant

Vacant  
Watershed Coordinator

N.H. Rivers Management and Protection Program

**N.H. Rivers Management Advisory Committee**

January 26, 2022

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

**RE: HB 1440** *An act relative to surface water quality standards for perfluorinated chemicals.*

Dear Chair Renzullo and Members of the Committee,

The Rivers Management Advisory Committee (RMAC) is writing to express its **opposition to House Bill 1440**, which mandates rulemaking establishing maximum contaminant levels for several PFAS chemicals, and establishing water quality standards to protect human health after consuming shellfish and fish.

The RMAC opposes this bill because

- Work is underway by the Department of Environmental Services to set PFAS standards for surface waters, making this bill unnecessary;
- We are not aware of there being sufficient scientific information available about bioaccumulation factors to translate PFAS levels in surface waters to PFAS levels in fish and shellfish; and
- Without sufficient scientific data available, it would be inappropriate to use water quality standards to protect people eating fish and shellfish.

The RMAC is a legislatively created body charged to work with the New Hampshire Department of Environmental Services (NHDES) to administer RSA 483, the Rivers Management and Protection Program. The Governor and Council appointed Committee is composed of members from business, agriculture, hydroelectric, municipal government, water supply, conservation, recreation, fish and game, and historical interests.

Should you have any questions regarding our testimony in opposition to HB 1440, please feel free to contact me at 603.796.2615 or [MLT@naturesource.net](mailto:MLT@naturesource.net).

Sincerely,



Michele L. Tremblay, Chair

cc: Rep.s Cushing, Grassie, Rung, Bouldin, Meuse, Tucker, and Paige  
RMAC Representatives  
Robert R. Scott, Commissioner, NHDES  
Ted Diers, Administrator, Watershed Mgmt. Bur., NHDES  
Tracie Sales, Rivers and Lakes Programs Manager, NHDES  
Local River Management Advisory Committee Chairs



**NEW HAMPSHIRE  
HB 1440  
OPPOSE**

The American Chemistry Council (ACC) is a national trade association representing chemicals and plastics manufacturers in the United States, including member companies in New Hampshire. The chemical industry directly employs over 2,049 people in New Hampshire and indirectly supports another 1,185 jobs and generates over \$155 million payroll over 68 establishments, supporting the needs of New Hampshire and its residents.

Over 96% of all manufactured goods are impacted by the business of chemistry, making this industry an essential part of every facet of our nation's economy. Chemistry provides significant economic benefits in every state including New Hampshire. Thanks to chemistry, our lives are healthier, safer, more sustainable and productive than before.

**NH HB 1440- This bill would establish standards for certain surface waters of the state equivalent to maximum contaminant levels for drinking water for four per- and polyfluoroalkyl substances (PFAS) and require the Department of Environmental Services to set standards for these substances for other surface waters.**

The American Chemistry Council (ACC) appreciates the opportunity to submit the following comments regarding HB 1440, legislation that would establish surface water standards for four per- and polyfluoroalkyl substances (PFAS) for surface water upstream of a surface drinking water supply and require the Department to set standards for these substances for other surface water in the state.

Chapter 368 of the Laws of 2018 requires the NH Department of Environmental Services (DES) to develop a plan for PFAS in surface water focused on four of the compounds included in this legislative proposal. The legislation would replace the deliberative process currently under way within the Department with limits and/or timeframes without the benefit of the additional data currently being collected. As required, NH DES submitted a report to the legislature which included a series of recommendations. One of those recommendations was for fish tissue sampling, which is ongoing.

For these reasons, we respectfully request that you oppose HB 1440 that would set surface water standards for four PFAS as proposed. Thank you.

Margaret Gorman  
Senior Director, Northeast Region  
American Chemistry Council  
[Margaret\\_Gorman@americanchemistry.com](mailto:Margaret_Gorman@americanchemistry.com)



January 11, 2022

Honorable Andrew Renzullo, Chairman  
House Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301 (via electronic delivery only)

Re: Testimony Regarding House Bills Currently Assigned to the Committee

Dear Chairman Renzullo and Committee Members:

I am writing on behalf of the NH Water Works Association (NHWWA) and our 300+ supporters who represent roughly 2,500 regulated public drinking water suppliers serving two-thirds of New Hampshire residents and businesses with safe, reliable, and affordable drinking water. Many of our supporters also operate wastewater treatment facilities, which is why water infrastructure policy requires a broad perspective and understanding of this essential public service.

This letter summarizes our input and positions on several bills assigned to this Committee. The bills and our positions are presented by increasing bill number. We plan to attend scheduled hearings but are submitting this testimony for your information and in case we cannot attend as planned.

There is a common theme in many of our comments, strongly advocating for the use of existing science-, health-, and risk-based methods to establish regulatory standards. We understand the importance and urgency of many of the issues facing the Committee and our fellow citizens and recommend investing robustly in the agencies and organizations that have the expertise to establish environmental regulations. Thank you for your consideration, and please do not hesitate to contact me if you have any questions.

**HB 1066** (establishing a commission to investigate and analyze the environmental and human and animal health impacts relating to cyanobacteria blooms in New Hampshire water bodies; Support)

Cyanobacteria occur in surface water, are highly toxic, and appear in dangerous concentrations with increasing frequency. Our largest public water providers (e.g. Manchester, Nashua, Concord, Portsmouth, Rochester) depend on surface water sources. It is critical that experts from the public drinking water sector be included on this Commission.

**HB 1167** (Establish new Maximum Contaminant Levels (MCLs) for perfluorinated chemicals in surface water; Oppose)



When surface water quality standards are lacking, existing NH Department of Environmental Services (NHDES) policy adopts established MCLs. Where MCLs do not exist, there are rigorous, risk-based scientific processes used to develop them. Surface water standards include multiple limits based on varying uses (water consumption, fish consumption, fish and shellfish health and consumption, recreational contact). We offer the following for your consideration:

- The legislation (Section X (a through d) proposes to adopt existing PFAS MCLs as surface water standards. We understand that this is existing NHDES policy, and that the applicable regulations are currently being updated to incorporate existing MCLs.
- Section X (e and f) propose creating new MCLs for two PFAS compounds. We oppose mandating regulatory standards without rigorous and established scientific methods and public input processes. Adopting new standards without proper analysis adds risk to public health, finances, and trust.
- Section X (g) proposes a combined standard not to exceed 20 ppt. This proposed standard is higher than the four existing individual MCLs, with unknown health and financial benefits and costs.
- Section XI reporting requirements are time consuming, expensive, and unnecessary, as existing NHDES policies and procedures are highly transparent and continually implemented and monitored for effect and impact through established public processes.

**HB 1440** (relative to surface water quality standards for perfluorinated chemicals; Oppose)

- The legislation requires NHDES to establish new surface water quality standards for several perfluorinated chemicals. The proposed schedule (September 1, 2022) is not feasible, given the time and cost of the required research, as summarized in the table on page 9 of NHDES "Plan to Generate PFAS Surface Water Quality Standards", prepared for the New Hampshire Legislature in Accordance with Chapter 368, Laws of 2018, December 30, 2019).
- Section XVII reporting requirements are time consuming, expensive, and unnecessary, as existing NHDES policies and procedures are highly transparent and continually implemented and monitored for effect and impact.

**HB 1618** (adds several perfluorinated chemicals to the list of per and polyfluoroalkyl substances with MCLs and establishes a cumulative total for the MCL of per and polyfluoroalkyl substances; Oppose)

- Section 1 proposes creating new MCLs for two PFAS compounds. We oppose developing health-based standards without rigorous and established scientific methods and public



# NHWWA

NH WATER WORKS ASSOCIATION

input processes. Adopting new standards without proper analysis adds risk to public health, finances, and trust.

- Section 1 also proposes a combined standard not to exceed 20 ppt. This proposed standard is higher than the four existing individual MCLs and one of the proposed MCLs and has no known health risk basis. We caution against the use of combined regulatory limits when contaminant toxicology is poorly understood.
- Section 2, July 1, 2022 enactment date, is infeasible for applying established processes for setting water quality standards.

**HB 1620** (identifying part of the Merrimack River as a protected river; Oppose)

The State has well established, rigorous, and transparent procedures that fully engage the public to jointly manage shared waters such as the Merrimack River (see NH Rivers Management and Protection statues, RSA 483). In particular, the nomination criteria listed at RSA 483:6 provide a comprehensive and robust process involving multiple stakeholders and experts. Rather than create policies and procedures through direct legislation, our Association supports using existing, proven, and accepted regulatory decision-making methods to meet legislative goals.

Thank you for your consideration of our testimony. Please do not hesitate to contact me if you should have any questions.

Sincerely,

**Boyd Smith**  
President and CEO  
[BSmith@NHWWA.org](mailto:BSmith@NHWWA.org)

Cc: House Resources, Recreation and Development Committee members (via electronic delivery only)





January 25, 2022

Honorable Andrew Renzullo, Chairman  
House Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301 (via electronic delivery)

Re: Testimony Regarding House Bill HB 1440 - OPPOSE

Dear Chairman Renzullo and Committee Members:

I am writing on behalf of the NH Water Works Association (NHWWA) and our 300+ supporters who represent roughly 2,500 regulated public drinking water suppliers serving two-thirds of New Hampshire residents and businesses with safe, reliable, and affordable drinking water. Many of our supporters also operate wastewater treatment facilities, which is why water infrastructure policy requires a broad perspective and understanding of this essential public service.

**HB 1440** (relative to surface water quality standards for perfluorinated chemicals; Oppose)

- The legislation proposes to use existing groundwater Maximum Contaminant Levels (MCLs) as surface water standards for PFAS compounds with MCLs. We understand this is standard procedure for NHDES, and that this process is currently underway. Therefore, statutory language is unnecessary.
- The legislation requires NHDES to establish new surface water quality standards for four (4) perfluorinated chemicals (PFOA, PFOS, and PFHxS, and PFNA). The proposed schedule to initiate rulemaking (September 1, 2022) is not feasible, given surface water standards for these compounds do not yet exist, and the requisite time, cost and expertise to develop new standards (see table on page 9 of NHDES "[Plan to Generate PFAS Surface Water Quality Standards](#)", prepared for the New Hampshire Legislature in Accordance with [Chapter 368, Laws of 2018, December 30, 2019](#)). We suggest that legislation calling for new environmental standards contain a fiscal note.

We understand that USEPA is currently developing human health criteria for PFOA and PFOS with anticipated completion by early 2023. We recommend that the NHDES follow USEPA standards for technical, cost, and consistency considerations.

- Section XVII reporting requirements are time consuming, expensive, and unnecessary, as existing NHDES policies and procedures are highly transparent and continually monitored and implemented for effect and impact.



Determining water quality standards that are protective of human health and the environment, feasible, and cost-effective follows a well-established, science-based regulatory process. Because of the technical complexity and implications of the resulting decision, teams of experts are required to develop, analyze, and interpret the required knowledge. This level of work is commonly performed by USEPA at the national level and adopted by States due to the need for both consistent, justifiable, appropriate, and protective standards.

Rather than create policies and procedures through direct legislation, we strongly recommend that regulatory standards be developed by experts and professionals using best practices and sound science. Therefore, we oppose HB1440 as currently written.

Thank you for your consideration of our testimony. Please do not hesitate to contact me if you should have any questions.

Sincerely,

**Boyd Smith**

President and CEO

[BSmith@NHWWA.org](mailto:BSmith@NHWWA.org)

Cc: House Resources, Recreation and Development Committee members (via electronic delivery)



## Heather Goley

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**From:** Diers, Ted <THEODORE.E.DIERS@des.nh.gov>  
**Sent:** Wednesday, January 19, 2022 5:02 PM  
**To:** Rosemarie Rung; ~House Resources Recreation and Development  
**Cc:** Bill Boyd  
**Subject:** PFAS in surface waters -- NHDES plan

Hello members of RR&D,

Representative Boyd asked me to send along the NHDES plan for standards for PFAS in surface waters that we published in 2020. This was sent to the General Court at the time but has likely disappeared amongst the hordes of emails that you all receive.

Here is the link to the report -- [Plan to Generate PFAS Surface Water Quality Standards-Prepared for the New Hampshire Legislature in Accordance with Chapter 368, Laws of 2018 \(nh.gov\)](#)

This report outlined the potential costs of developing standards for PFAS compounds for which MCLs or other guidance do not exist. This may be helpful in your deliberations on HB 1167 and **HB 1440.**

Please let me know if you have any questions and have any trouble downloading the document.

Thanks,  
Ted

Ted Diers, Administrator  
Watershed Management Bureau  
Water Division  
NH Department of Environmental Services  
29 Hazen Drive, PO Box 95  
Concord, NH 03302-0095  
[Ted.diers@des.nh.gov](mailto:Ted.diers@des.nh.gov)  
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## Heather Goley

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**From:** Save Forest Lake <saveforestlake@yahoo.com>  
**Sent:** Tuesday, January 25, 2022 2:18 PM  
**To:** ~House Resources Recreation and Development  
**Cc:** Renny Cushing; Chuck Grassie; Rosemarie Rung; Andrew Bouldin; David Meuse; Edith Tucker; Mark Paige  
**Subject:** Testimony In Support Of HB1449

Dear Chairman Renzullo, Vice-Chairman Harb, and RR&D Committee Members:

I am writing in support of HB1440, an act relative to surface water quality standards for perfluorinated chemicals (PFAS). It is no coincidence that there are so many environmentally-related bills being introduced in this year's legislative session. As we have learned during this Covid pandemic, the great outdoors have proven to be invaluable to people seeking to escape the confines of the indoors, and we've most certainly witnessed this in New Hampshire, as both transplants and tourists flock to our beautiful state, to relocate and recreate. It is crucial that we are diligent in protecting and preserving that which makes our state so attractive to others, which makes it so unique in so many ways, that being our natural resources and our environment. The PFAS family of forever chemicals have become a scourge upon our nation, a byproduct of our nation's never-ending efforts to improve our quality of life and our desire to ease the burdens of daily life. How ironic, frankly, that in doing so, we have seemingly poisoned ourselves and our children, and are well on our way to poisoning that which keeps us alive, our waters. In an effort to stem the continued spread of this seemingly indestructible contaminant into our natural environment, it would be prudent that measures are taken to monitor and hopefully counter this, and HB1440 should be one of those measures taken. Stringent standards and laws will be required to try and stop the further proliferation of these chemicals, and I urge you to vote in support of HB1440 as OTP, ought to pass.

Thank you, as well, for what you do as representatives of your constituents in Concord.

Thank You!

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078  
Founder, Save Forest Lake

*"Unless someone like you cares a whole awful lot, nothing is going to get better. It's not."  
-The Lorax*

*Do not allow this proposed development to scar the beautiful landscape of the North Country for generations to come*

## Heather Goley

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**From:** Kathy K <alfadva33@hotmail.com>  
**Sent:** Thursday, January 13, 2022 11:48 AM  
**To:** ~House Resources Recreation and Development  
**Subject:** HB1440

I urge you to support this bill. We NEED to protect our environment from PFAS FOREVER chemicals.

Thank you  
Kathy Komar  
Merrimack

**Heather Goley**

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**From:** marks-dad@ipatriots.us  
**Sent:** Thursday, January 27, 2022 1:30 AM  
**To:** ~House Resources Recreation and Development  
**Subject:** Please Support HB 1440

Dear NH House Resources Recreation and Development  
Committee;

Please support HB 1440.

Thank You

Bryan L. Richardson Sr.  
Alexandria

HB 1440 - AS INTRODUCED

2022 SESSION

22-2494

08/10

HOUSE BILL **1440**

AN ACT relative to surface water quality standards for perfluorinated chemicals.

SPONSORS: Rep. Cushing, Rock. 21; Rep. Grassie, Straf. 11; Rep. Rung, Hills. 21; Rep. Andrew Bouldin, Hills. 12; Rep. Meuse, Rock. 29; Rep. Tucker, Coos 5; Rep. Paige, Rock. 18

COMMITTEE: Resources, Recreation and Development

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ANALYSIS

This bill requires the department of environmental services to make rules about perfluorinated chemical limits in surface waters.

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Explanation: Matter added to current law appears in *bold italics*.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to surface water quality standards for perfluorinated chemicals.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Paragraphs; Rulemaking; Surface Water Quality Standards PFOA and PFOS. Amend  
2 RSA 485-A:8 by inserting after paragraph II-a the following new paragraphs:

3 II-b. The department shall, no later than January 1, 2023, initiate rulemaking under RSA  
4 541-A to adopt surface water quality standards for perfluorooctanoic acid (PFOA), perfluorooctane  
5 sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA) to  
6 be applied to surface waters within 20 miles upstream of surface drinking water supplies. The  
7 surface water standards for the following shall be: Perfluorooctanoic acid (PFOA), 12 parts per  
8 trillion; Perfluorooctanesulfonic acid (PFOS), 15 parts per trillion; Perfluorohexanesulfonic acid  
9 (PFHxS), 18 parts per trillion; Perfluorononanoic acid (PFNA), 11 parts per trillion. Surface water  
10 standards shall be no less stringent than the maximum contaminant levels established for such  
11 chemicals for drinking water.

12 II-c. The department shall, no later than September 1, 2022, initiate rulemaking under RSA  
13 541-A to adopt surface water quality standards for perfluorooctanoic acid (PFOA), perfluorooctane  
14 sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA) to  
15 ensure water concentrations will support the safety of fish and shellfish for human consumption as  
16 well as water that is safe for human consumption. Such standards shall be premised on a  
17 bioaccumulation factor and the standard adopted in rules under RSA 485-A:8, II-b. They shall  
18 provide an adequate margin of safety to protect human health at all stages, based on the most  
19 critical human health effect and combined effects of chemical exposures, including but not limited to  
20 prenatal development, and a maximum exposure risk of one cancer in 1,000,000 exposed population.

21 2 New Paragraphs; Surface Quality Standards; Rulemaking. Amend RSA 485-A:6 by inserting  
22 after paragraph XV the following new paragraphs:

23 XVI. Surface water quality standards for perfluorooctanoic acid (PFOA), perfluorooctane  
24 sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA)  
25 under RSA 485-A:8, II-b and II-c.

26 XVII. By November 1, 2022, and at least annually thereafter, the commissioner of the  
27 department of environmental services shall report to the speaker of the house of representatives and  
28 the president of the senate, the chairperson of the house committee on science, technology, and  
29 energy, the chairperson of the senate committee on energy and natural resources, the chairperson of  
30 the joint legislative committee on administrative rules, and the governor, with a recommendation  
31 regarding the adjustment of the surface water standards set in RSA 485-A:8, II-b and II-c. The

**HB 1440 - AS INTRODUCED**

**- Page 2 -**

1 department shall also recommend additional PFAS chemicals or others for rulemaking, as  
2 appropriate, based on available science as drinking water maximum contaminant levels are  
3 established. The standards shall be no less stringent than the maximum contaminant levels  
4 established for such chemicals for drinking water.

5 3 Effective Date. This act shall take effect July 1, 2022.