

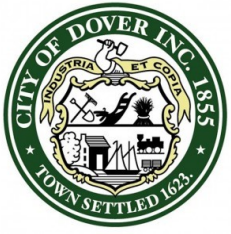
Great Bay Inter-municipal Agreement

CITY COUNCIL WORKSHOP

JANUARY 6, 2021

CITY OF DOVER LEGAL DEPARTMENT

JENNIFER PEREZ, DEPUTY CITY ATTORNEY



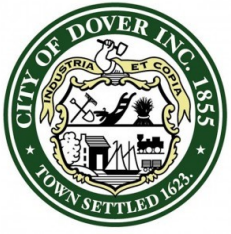
Agenda

Statutory Basis

Relation to the Great Bay Permit

Initial Proposal

Next Steps



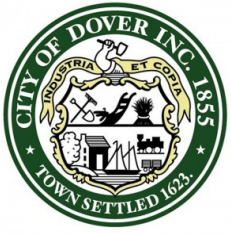
Inter-municipal Agreement Background

An agreement between governmental units to cooperatively engage in some governmental function

Chapter 53-A Agreements Between Governmental Units

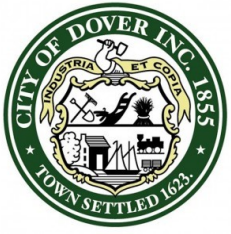
RSA 53-A:1 “It is the purpose of this chapter to permit municipalities and counties to make the most efficient use of their powers by enabling them to cooperate with other municipalities and counties on a basis of mutual advantage”

NH Clean Lakes Program established in RSA 487:15-487:25 specifically addresses Municipal Agreements in RSA 487:22



RSA 487:22 Municipal Agreements

Whenever a project requires a commitment of cooperative action or local cost sharing involving 2 or more municipalities, all participating municipalities shall execute an inter-municipal agreement relative to their respective obligations. No project which requires a local match shall be initiated with state funding until such an agreement, if applicable, has been approved by the legislative bodies of all the involved municipalities.



Great Bay Total Nitrogen General Permit

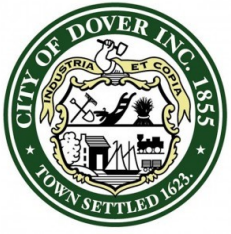
Part 3 – Adaptive Management Framework Voluntary Submittal

Inter-municipal agreement
promotes compliance with this
permit

Adaptive management is an approach to natural resource management that emphasizes learning through management where knowledge is incomplete, and when, despite inherent uncertainty, managers and policymakers must act.

(Allen, C. and A. Garmestani. Adaptive Management. Chapter 1, Craig R. Allen, Ahjond Garmestani (ed.), Adaptive Management of Social-Ecological Systems. Springer Netherlands, Dordrecht, Netherlands, , 01-10, (2015)



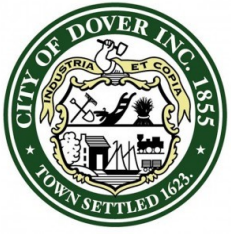


Involvement in the Great Bay Adaptive Management Framework

By August 1, 2021, the permittees may, at their election, submit a proposal to EPA that outlines:

- The approach to monitor the ambient water quality in the Great Bay estuary to determine progress and trends.
- The method(s) to track reductions and additions of total nitrogen over the course of the permit.
- An outline/plan for overall source reductions of total nitrogen over the course of the permit
- An inclusive and transparent process for comprehensively evaluating any significant scientific and methodological issues relating to the permit, including the choice of a load-based threshold of 100 kg ha⁻¹ yr⁻¹ versus any other proposed threshold, including a concentration-based threshold of 0.32 mg/L. This submission shall include detailed milestones culminating in submission of a report to EPA for inclusion in the administrative record for permit renewal. That report shall be completed prior to expiration of the permit term and shall indicate whether NHDES concurs with the findings.
- A proposed timeline for completing a Total Maximum Daily Load (TMDL) for Total Nitrogen in Great Bay and for submitting it to EPA for review and approval.

Permittees may, at their election, submit this proposal **jointly or separately**. EPA encourages permittees to consult with NHDES, PREP and other interested parties in advance of their proposed submission(s).



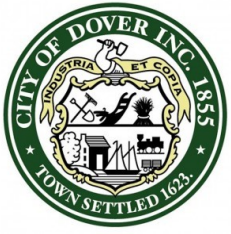
Proposed Agreement

Begun informal conversations with the surrounding municipalities

Positive response thus far

Draft inter-municipal plan:

- Municipal cooperation and coordination in developing an approvable joint proposal for the Adaptive Management Framework
- Consultation with EPA, NHDES, CLF, and the Piscataqua Region Estuaries Partnership (“PREP”)
- Addresses work on nitrogen source reduction, nitrogen load tracking method, ambient water quality monitoring, evaluation of significant scientific and methodological issues, and load capacity determinations
- Development of a formal Inter-municipal Agreement



Proposed Formal Inter-municipal Agreement

Still in development

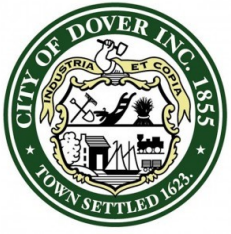
Term: April 2, 2021 thorough November 25, 2025

- The initial term of the Permit
- Renewable for five year periods

Dover would be one of the initiating parties taking a leadership role in this Adaptive Management effort

- City Manager as acting authority

Agreement can be terminated by mutual agreement or members can withdraw with notice



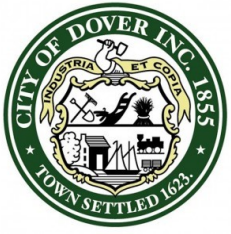
Work and Cost Sharing Under the Agreement

Initial scope of work will commence prior to entering Formal Agreement

After Agreement start date all members will participate in the cost of monitoring, data gathering, and water quality analysis

Contribution formula is being developed

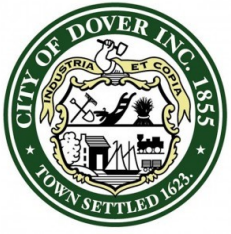
- Taking into account the initial work done by Dover



Next Steps – RSA 53-A Requirements

Finalization of the Formal Agreement pursuant to RSA 53-A:3

- Specifying the following:
 - Its duration;
 - The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;
 - Its purpose;
 - The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;
 - The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such termination;
 - Any other necessary and proper matters
- Submitted to the attorney general for determination whether the agreement is in proper form with the laws of the state
- RSA 53-A:4 – Filing the agreement with each municipality and with the secretary of state

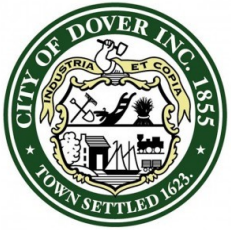


Next Steps

Memorandum of Agreement to participate in cost sharing for the initial work

Brown and Caldwell Agreement

- highly reputable water quality monitoring firm to help guide the ongoing work by regulators and PREP to develop a future water quality monitoring program for Great Bay
- used in the past, in collaboration with other communities
- expert on developing a water quality monitoring plan
- Intend to later assign this agreement and have Brown and Caldwell work for the inter-municipal body that gets created through the Agreement



Questions?