



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



**Robert R. Scott, Commissioner**

February 13, 2024

The Honorable Judy Aron  
Chair, House Environment and Agriculture Committee  
Legislative Office Building, Room 301  
Concord, NH 03301

**RE: HB 1132, AN ACT relative to permits for the siting of new landfills.**

Dear Chair Aron and Members of the Committee:

Thank you for the opportunity to testify on HB 1132. This bill would require persons proposing to site new solid waste landfills on previously undeveloped land to identify brownfields sites that could serve as substitute sites for the facility, and to demonstrate whether the greenfield site provides greater public benefits than the brownfield sites. The New Hampshire Department of Environmental Services (NHDES) opposes this bill.

Under RSA 149-M:11, NHDES is required to determine whether a proposed solid waste facility provides a substantial public benefit based upon three criteria: 1) The short- and long-term need for a facility of the proposed type, size, and location to provide capacity for New Hampshire waste, 2) the ability of the proposed facility to assist in achieving the implementation of the hierarchy and goals established in the statute, and 3) the ability of the proposed facility to assist in achieving the goals of the state solid waste management plan and plans prepared by solid waste districts. Under the law, the applicant is required to demonstrate how the facility satisfies these three criteria. In making its determination of public benefit, NHDES is also directed to consider the concerns of local governing bodies and citizens and the economic viability of the proposed facility.

This bill proposes to amend the law to require NHDES to also consider “the availability of brownfields sites that could serve as reasonable substitute sites for a facility...that would be located on a greenfield site.” To facilitate this, the bill directs NHDES to require the applicant to “identify alternative brownfield sites ...that could reasonably provide similar public benefits and demonstrate... whether the greenfield site provides greater public benefits, and if so, by how much.”

NHDES assumes that this bill is intended to encourage development of landfills at brownfield sites preferentially over such development at greenfield sites. NHDES has worked successfully for almost 30 years to encourage redevelopment of brownfields sites, as evidenced by our administration of the NH Brownfields Covenant, Revolving Loan Fund, Targeted Assessment and Cleanup Grant programs. However, NHDES believes that this bill proposes changes that would be ineffective in encouraging such development and would be very difficult to administer for several reasons.

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First, the site characteristics of New Hampshire's brownfields sites are inconsistent with the types of sites that are appropriate for development as landfills. The vast majority of brownfields sites in the state are former mill, manufacturing, and commercial service properties that are located on relatively small parcels of land, often located within or close to town centers. Such parcels are neither conducive to, nor appropriate for development as landfills. Sites considered for potential development of a new landfill are generally expected to be parcels of at least 100 acres or more. A review of the known universe of brownfields sites does not reveal any such sites in New Hampshire.

Second, the bill's requirement that an applicant identify such sites and demonstrate for each site whether the greenfield site provides greater public benefit is both unclear and difficult to administer. The bill suggests no criteria for assessing relative degrees of public benefit. It is unclear to NHDES how it would be expected to evaluate such demonstrations. In addition, the required identification of alternate brownfields sites appears to give no consideration as to whether the site is available to the applicant for acquisition and development as a landfill. As such, the requirement would appear to encourage more of a hypothetical exercise than a meaningful analysis of alternatives.

Thank you again for the opportunity to comment on HB 1132. In summary, NHDES opposes this bill because it would be both ineffective in achieving its goals and difficult to administer. Should you have questions or need additional information, please feel free to contact either Michael Wimsatt, Waste Management Division Director ([michael.wimsatt@des.nh.gov](mailto:michael.wimsatt@des.nh.gov), 271-1997) or me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert R. Scott  
Commissioner

ec: Sponsor of HB 1132: Representative Massimilla