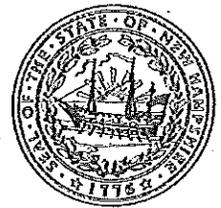


The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 Years of Protecting
New Hampshire's Environment*



February 14, 2012

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

Subject: Proposed Amendment to HB1721 (2012-0523h), Relative to Self Certification of Spill Prevention, Control, and Countermeasure (SPCC) Plans for Aboveground Petroleum Storage Tank (AST) Facilities.

Dear Chairman Renzullo :

Thank you for the opportunity to testify on proposed amendment 2012-0523h to HB 1721. The Department of Environmental Services (DES) would like to emphasize that the testimony provided in this letter pertains only to the proposed amendment, and not to the bill itself. DES is providing testimony on the sewage disposal system issue addressed by HB 1721 under separate cover.

DES rule Env-Wm 1402.30 requires that owners of aboveground petroleum storage tanks have their Spill Prevention, Control and Countermeasures ("SPCC") plans certified by a licensed professional engineer. An SPCC Plan is a written document establishing release prevention measures and effective response procedures for releases from aboveground storage tank ("AST") systems. SPCC plans involve vital advance planning that minimizes the potential for discharges and provides for effective response to releases of petroleum products. Professional preparation and certification of such plans serves to ensure the best possible protection, particularly for higher risk tanks. The proposed amendment would allow certain qualifying tank owners to self-certify their SPCC plans in lieu of professional certification. DES supports the amendment because it allows for self-certification for a group of lower-risk facilities, but maintains the requirement for professional certification for higher risk tanks, such as those storing gasoline.

A more expansive change to the current law was proposed earlier this legislative session in HB 1661, a bill primarily pertaining to workers' compensation that is being heard before the House Labor, Industrial and Rehabilitative Services Committee. The original bill would have removed the professional certification requirement for all tank facilities with less than 10,000 gallons of storage capacity, without regard to the type of fuel being stored. DES opposed that language because it believed the proposal would not be sufficiently protective of the environment. However, DES worked with stakeholders and the sponsor to develop an amendment with lower self-certification storage capacities that are appropriate for New Hampshire's environment and that reflect the need for professional certification of larger facilities and those that store gasoline. The sponsor has proposed that revised language as the subject amendment to HB 1721, and DES supports the amendment.

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The amendment provides for SPCC self-certification for facilities having less than 5,000 gallons aggregate capacity of any petroleum product, and less than 660 gallons of gasoline storage capacity. DES believes that such facilities are appropriate candidates for self-certification, and that these limits represent appropriate self-certification thresholds for New Hampshire's environment. The amendment takes into account New Hampshire's relatively shallow groundwater and extensive reliance on groundwater as a source of drinking water. We believe that the lower threshold for gasoline is important because of gasoline's higher toxicity and higher potential to quickly migrate through soil and impact groundwater quality, relative to fuel oils and motor oils. These thresholds will minimize risk to the environment, while still providing economic relief to the vast majority of small businesses, as was intended in the original bill.

In summary, we believe that the proposed amendment would strike an appropriate balance between vital environmental and public health protections and efforts to reduce costs for small businesses. Thank you for your careful consideration of the amendment. If you have any questions or require additional information please contact Mike Wimsatt, Director of the Waste Management Division, at (603) 271-2905 michael.wimsatt@des.nh.gov.

Sincerely,



Thomas S. Burack, Commissioner
Department of Environmental Services

cc: Representative Paul Mirski
HB 1721 Sponsors
Committee Members