



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

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



April 12, 2012

The Honorable Bob Odell, Chairman
Senate Energy and Natural Resources Committee
Room 102
Legislative Office Building
Concord, New Hampshire 03301

RE: HB 1721 – as amended by the House, relative to oil spillage prevention, control, and countermeasure plans

Dear Chairman Odell:

Thank you for the opportunity to testify on HB 1721 as amended by the House. The Department of Environmental Services (DES) would like to emphasize that the testimony provided in this letter pertains only to the provisions relative to oil spillage prevention, control, and countermeasure plans and not to the bill in its entirety. 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 serve to ensure the best possible protection, particularly for higher risk tanks. This bill would allow certain qualifying tank owners to self-certify their SPCC plans in lieu of professional certification. DES supports the bill as amended 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. 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 to HB 1721 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. That consensus language is now contained in HB 1721 as amended by the House, and DES supports it.

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The bill 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 bill 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 gasoline, as compared to fuel oils and motor oils, has higher toxicity and higher potential to quickly migrate through soil and impact groundwater quality. 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 this amended provision of HB 1721 would provide necessary and appropriate protections of environmental quality and public health while at the same time reducing costs for small businesses. Thank you for your careful consideration this important bill. 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