



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 18, 2022

The Honorable Howard Pearl
Chairman, House Environment & Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

RE: HB 1121, An Act relative to new solid waste sites

Dear Chairman Pearl and Members of the Committee:

Thank you for the opportunity to testify on HB 1121. This bill would establish specific insurance and surety bonding requirements for new privately-owned landfills. NHDES is not taking a position on this bill, but does have some concerns about the provisions of the bill.

First, the bill requires applications for a new solid waste landfill to “submit evidence (to NHDES) that the applicant is in compliance with all insurance and surety bonding requirements of the state and federal government.” At present, NHDES is unaware of any specific state or federal insurance or bonding requirements specifically applied to solid waste landfills. Accordingly, NHDES is uncertain of what effect this provision of the bill would have, or how NHDES would implement or enforce the provision.

Second, the bill requires an applicant to “provide evidence to the jurisdictions in which it will be located, and all adjacent jurisdictions, that the applicant qualifies for and will obtain a surety bond against any and all damages caused to individuals and businesses located within those jurisdictions as a result of operation of the landfill.” It is unclear to NHDES what would constitute “damages,” who would make that determination, and whether and how NHDES would be expected to enforce the provision. Further, given these uncertainties of scope, and our understanding that such a bond would need to be in force and effect for perhaps decades, NHDES questions whether such bonds would be obtainable in the market.

Third, the bill applies these requirements only to new privately-owned landfills. NHDES notes that to the extent that the bill is needed to protect individuals and businesses from damages that may be caused by operation of a landfill, it could be presumed that such damages could also be caused by a publicly-owned landfill.

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Thank you again for the opportunity to comment on HB 1121. Should you have further questions or need additional information, please feel free to contact Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner

ec: Sponsors of HB 1121: Representatives Massimilla, Burroughs, Egan, Merchant, Deshaies; Senator Hennessey