



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

May 10, 2021

The Honorable Kevin Avard
Chairman, Senate Energy and Natural Resources Committee
State House, Senate Chamber
Concord, NH 03301

RE: HB 177, An Act prohibiting the siting of a landfill near a state park

Dear Chairman Avard and Members of the Committee:

As requested, I am writing to provide information that may be of assistance to committee members as they consider HB 177 as amended by the House. This bill would prohibit the New Hampshire Department of Environmental Services (NHDES) from issuing permits for a new landfill, if any part of the actual solid waste disposal area is proposed to be located within two (2) miles of the boundary of any state park. NHDES is not taking a position on this bill and did not provide testimony during the House Environment and Agriculture Committee's hearing on the bill. However, NHDES staff did listen to testimony provided during the hearing, and heard several issues of concern relative to siting of a landfill near a state park. I am writing now to provide information about how those issues are addressed at operating landfills under the NH Solid Waste Rules (Rules) and under permits issued by NHDES, as well as a brief description of the public benefit determination that NHDES must make before granting approval of an application, in order to assist your committee with its deliberations on the bill.

After listening to testimony on the bill, NHDES identified issues that can be grouped into two overarching topics relative to potential off-site impacts from landfill operations that were raised by witnesses at the hearing and that are addressed by NHDES' regulatory program for landfills. These topics are nuisance conditions (e.g., odors, noise, vectors, litter) and groundwater and surface water contamination.

First, witnesses expressed concerns about the potential impact of nuisance conditions such as odors, litter, vectors (e.g., birds), and noise, on off-site properties. NHDES acknowledges that almost any facility that handles solid waste has the potential to be a source of nuisance conditions. The Solid Waste Rules include multiple specific requirements that limit the potential for odors and other nuisance conditions from landfills, in addition to the requirement in Env-Sw 1005.01, *General Operating Requirements*, that solid waste facilities "...be operated and maintained in a manner that controls to the greatest extent practicable" nuisance conditions. Common control methods include:

- applying daily and intermediate cover over waste;
- limiting exposed waste during filling operations to the smallest area practicable;
- installing litter fences and policing the surrounding areas for windblown litter;
- installing and operating a landfill gas collection and control system;
- conducting periodic landfill cover integrity checks and surface emission monitoring;

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- rejecting odorous wastes;
- requiring odorous wastes be treated prior to arrival at the facility;
- using odor neutralizing products or misting agents;
- limiting operations to between the hours of 6 am and 6 pm;
- using static alarms on equipment; properly maintaining equipment, from construction and compaction equipment to landfill gas collection, control and destruction (e.g., flare) systems;
- implementing a bird depredation program.

In addition, the Rules require permittees to report and respond to complaints of recurring or persistent nuisance situations such as noise, litter, odor, dust or vectors.

Second, witnesses expressed concerns about the potential for contamination of groundwater and surface water from landfill operations and management of leachate. A proposed landfill site must undergo rigorous hydrologic and hydrogeological evaluations to ensure that the proposed facility location meets siting criteria, and to ensure that surface and groundwater conditions are well understood and the fate and transport of any potential contamination can be predicted. The Solid Waste Rules require that landfills be designed and constructed with two synthetic liner systems, each of which has its own leachate collection system. Leachate collection systems are designed to rapidly move leachate off of the liner, and collect it for proper disposal at an authorized treatment facility. Liners and leachate collection systems are required to be monitored and maintained throughout the operating life of the landfill, and during the closure and post-closure periods. Further, landfill permittees are required to obtain and comply with a Groundwater Release Detection Permit under Env-Or 700, which requires the permittee to monitor groundwater quality in the vicinity of the facility. If a release is detected, groundwater monitoring intensity is immediately increased, and appropriate actions are required to identify and remedy the source of the release. All of these systems and requirements are designed to ensure that both groundwater and surface water resources near the landfill are protected.

In addition, I would like to take this opportunity to provide a brief description of the public benefit requirements of NH's Solid Waste Management Act. In order to approve a permit application, NHDES must determine that a proposed solid waste facility provides a substantial public benefit, based upon the three criteria in RSA 149-M;11,III(a) through (c), as follows:

- (a) "The short- and long-term need for a solid waste facility of the proposed type, size, and location to provide capacity to accommodate solid waste generated within the borders of New Hampshire....;"
- (b) "The ability of the proposed facility to assist the state in achieving the implementation of the hierarchy and goals (identified in the statute);"
- (c) "The ability of the proposed facility to assist in achieving the goals of the state solid waste management plan, and one or more solid waste management plans submitted to and approved by the department...."

The applicant must demonstrate in its application that the proposed facility satisfies all three of these criteria, in order for NHDES to determine that it provides a substantial public benefit.

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Thank you again for the opportunity to provide this information regarding NHDES' regulatory program for solid waste landfills. We trust that it will be helpful to the committee as it deliberates on HB 177. Should you have questions or need additional information, please feel free to contact Mike 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

cc: Sponsors of HB 177: Representatives Tucker, Egan, Hatch, Thompson, Laflamme; and Senator Hennessey