



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



**Robert R. Scott, Commissioner**

February 21, 2023

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

**RE: HB 56, 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 56. This bill requires the New Hampshire Department of Environmental Services (NHDES) to establish a site-specific setback distance for a landfill from perennial surface waters and specifies a method for calculating that distance. NHDES has concerns relative to specific provisions of the bill and how this bill would be implemented.

HB 56 requires NHDES to establish a site-specific setback distance for any proposed new landfill from any perennial river, lake, or coastal water. The bill provides that the setback distance shall be sufficient to prevent any groundwater contaminated by the landfill from reaching surface water within five years. The setback distance is to be determined by an independent hydrogeologist based upon on-site testing to estimate groundwater seepage velocity. The bill provides that “[t]he maximum seepage velocity shall be the highest rate estimated for any test site in the disposal area.” The five-year travel distance estimate shall then be calculated using this maximum seepage velocity. The bill also gives NHDES the authority to adopt rules to establish “project improvement allowances,” each of which can add one year of travel time credit (to effectively reduce the five-year period). Up to three such allowances could be applied to a given project. The allowances, while not specified in the bill, include “additional control technologies, monitoring programs, or funding guarantees” that may increase the safety of the project.

NHDES has several concerns with the provisions of the bill. First, it is not clear to NHDES how the five-year travel distance has been determined to be the appropriate standard, and what impact this may have on the future availability of landfill sites in the state. Second, the provision requiring the use of the highest rate estimated “for any test site” is somewhat unclear but would appear to potentially result in erroneously high estimates of overall groundwater seepage velocities from the landfill site to surface waters. Lastly, there is little detail in the bill relative to the nature of the “project improvement allowances” that it envisions. It is unclear to NHDES what specific actions or improvements are intended.

NHDES is following a somewhat similar bill, SB 61, which would direct NHDES to undertake rulemaking to establish criteria for setting site-specific surface water setbacks for landfills. We

[www.des.nh.gov](http://www.des.nh.gov)

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
(603) 271-3503 • Fax: 271-2867 TDD Access: Relay NH 1-800-735-2964

The Honorable Judy Aron  
Chair, House Environment & Agriculture Committee  
February 21, 2023  
Page 2

understand that efforts are under consideration to combine SB 61 with SB 227, a bill that would direct NHDES to use a contractor to conduct a critical assessment of current setback requirements. NHDES believes that such an assessment would be of great value and would assist us in future efforts to review and revise our current rules to ensure adequate protection of surface waters. NHDES believes that combining the bills could be an effective means of addressing this topic.

Thank you again for the opportunity to comment on HB 56. Should you have questions or need additional information, please feel free to contact 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", with a long horizontal flourish extending to the right.

Robert R. Scott  
Commissioner

ec: Sponsors of HB 56: Representatives M. Murray, Massimilla, Almy, Petrigno, Hamer, Stapleton, Simpson, Senator Watters