



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Robert R. Scott, Commissioner

April 22, 2024

The Honorable Kevin Avard
Chairman, Energy and Natural Resources Committee
State House, Room 103
Concord, NH 03301

Re: HB 1103 - An Act Relative to Revising the Penalties of the Shoreland Protection Act

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to testify on HB 1103. This legislation would remove language within RSA 483-B:18, III which sets an unachievable threshold for the assessment of fines for violations of the Shoreland Protection Act. The New Hampshire Department of Environmental Services (NHDES) supports this bill.

The purpose of the Shoreland Protection Act is to protect the shorelands of the State to maintain the water quality of public waters. To achieve this goal, the NHDES needs credible authority to issue fines for violations of the Act. Since 2011, the NHDES has been unable to meet the legal standard to issue fines even for egregious violations because of language in the penalties section of the statute. This language has been a barrier in two ways. First, it requires that the NHDES prove that a given violation was responsible for a measurable detrimental impact on the water quality of the protected surface water. In the case of a lake, it is impossible to prove any one violation degraded water quality of the whole lake. Second, it requires that the NHDES prove the violator's state of mind to show that they failed to make a "good faith effort at remediation and restoration". In combination these requirements undermine any effort to impose fines for violations of the statute.

The NHDES always seeks to work cooperatively with the public. Enforcement cases are rare, and fines are only sought after all other remedies have been exhausted. In these cases, the NHDES needs credible deterrence to protect the interests of the general public in the quality of public waters.

Thank you again for the opportunity to comment on HB 1103. Should you have questions or need additional information, please feel free to contact Darlene Forst, Wetlands Bureau Administrator at Darlene.C.Forst@des.nh.gov or (603) 271-4054.

Sincerely,

Robert R. Scott
Commissioner

ec: Sponsors of HB 1103: Representatives Rung, J. MacDonald, Crawford, Coker, Tanner, Ebel, and Wolf, and Senator Watters