



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Robert R. Scott, Commissioner**

May 3, 2024

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

**RE: HB 1113 An Act relative to shoreland septic systems**

Dear Chair Avard and Members of the Committee:

Thank you for the opportunity to comment on HB 1113. This bill changes the requirements for assessments of septic systems during real estate transactions for waterfront properties. The New Hampshire Department of Environmental Services (NHDES) supports this bill, as amended by the House, because it will improve the value of the assessment to the buyer and improve local water quality.

RSA 485-A:39 requires a site assessment for waterfront properties served by a septic system as part of a real estate transaction. Currently, the site assessment solely determines how much wastewater could be treated by the soils on the lot, so the parties understand the development potential for the lot. The site assessment does not provide information about the condition of the septic system.

HB 1113 would replace the site assessment with an evaluation of the existing septic system. The purpose of such an evaluation would be to help identify septic systems that are not functioning properly or are showing signs of failure. For properties where the septic system either does not have a state approval or was installed prior to the soil-based septic system rules (1989), a permitted designer will be required to determine whether the system is properly situated relative to the seasonal high water table. If the system is determined to be in failure, the buyer would have 180 days to replace it.

HB 1113 would strengthen water quality protections for lakes. Septic systems that are failing, not functioning properly, or not designed properly are a significant contributor of excess nutrients to lakes. Overall, the water quality of New Hampshire's lakes is declining. Harmful algal blooms have become more frequent. In the 2023 monitoring season, 47 lakes had cyanobacteria advisories issued, with some lakes having multiple advisories. Four waterbodies had advisories issued for more than 100 days and 10 waterbodies had advisories longer than 50 days. As described in the *New Hampshire's Cyanobacteria Plan: A Statewide Strategy*, watershed sources on average contribute 60% of the phosphorus load to a waterbody. A review of 37 watershed plans for New Hampshire waterbodies completed between 2010 and 2022 indicated that septic systems, where evaluated in the watershed plan, contribute 11% on average to the total external phosphorus load. Further, based on the 2020/2022 Surface Water Quality Report, 21% of New Hampshire's impaired waterbodies (which includes 175 assessed lakes) are impaired by nutrients, such as ammonia, total nitrogen, and total phosphorus; nutrient influenced parameters, such as cyanobacteria, excess algal growth, dissolved oxygen and chlorophyll-a; or, some

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combination of both. Detecting and fixing malfunctioning or failing septic systems adjacent to lakes and rivers would improve water quality.

It is important to note that HB 1113 would also lower transaction costs for people buying and selling waterfront properties. Under the current law, buyers and sellers are paying for both site assessments and evaluations because the former is mandated, and the latter provides information about the condition of the system. HB 1113 would eliminate the need for a site assessment in normal transactions, saving \$500 per sale. The bill also reduces the number of properties subject to the requirement to just those with septic systems in the protected shoreland, not all properties that have waterfront in the protected shoreland. For properties with older systems, there will be an extra cost to determine the depth of the system relative to the water table; however, this requirement will only apply for a fraction of the total transactions. Finally, the bill includes an option for the buyer to not perform the evaluation if they plan to replace the system anyway, such as in a tear-down situation.

Thank you again for the opportunity to comment on this legislation. If you have questions or need additional information, please contact either Philip Trowbridge, Land Resources Program Manager ([Philip.R.Trowbridge@des.nh.gov](mailto:Philip.R.Trowbridge@des.nh.gov) - 603-271-4898) or Rene Pelletier, Water Division Director ([rene.i.pelletier@des.nh.gov](mailto:rene.i.pelletier@des.nh.gov) - 603-271-2951).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert R. Scott  
Commissioner

ec: Sponsors of HB 1113: Representatives Rung, Coker, Rochefort, Ebel; Senator Watters