

HB 707 - AS AMENDED BY THE HOUSE

26Mar2025... 1041h

2025 SESSION

25-0579

08/09

HOUSE BILL

707

AN ACT requiring the department of environmental services to revise the rules for proposed new landfills.

SPONSORS: Rep. Potenza, Straf. 19; Rep. B. Boyd, Hills. 12; Rep. N. Germana, Ches. 15; Rep. Haskins, Rock. 11; Rep. S. King, Coos 4; Rep. J. Aron, Sull. 4; Rep. Noble, Hills. 2; Rep. Burroughs, Carr. 2; Rep. Gruber, Ches. 16; Rep. Schmidt, Straf. 14; Sen. Fenton, Dist 10; Sen. Ricciardi, Dist 9; Sen. Rochefort, Dist 1

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

The bill requires the department to modify rules to avoid significant harms to human health and the environment, and changes the enabling statute of the department of environmental services solid waste division to require the department to consider health and the environment when making future rules.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT requiring the department of environmental services to revise the rules for proposed new landfills.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Statement of Purpose. The general court finds that protecting the health and safety of New
2 Hampshire citizens, drinking water sources, and our environment, including drinking water wells,
3 perennial rivers, lakes, and coastal waters, from contamination is of utmost public interest.
4 Therefore, based on legislative intent informed by public and expert testimony from New Hampshire
5 citizens and key stakeholders, the department of environmental services' 800 rules for proposed new
6 landfills are found to be insufficiently protective in certain sections. The following provisions provide
7 the department with direction, policy changes, and purpose in rulemaking.

8 2 New Subparagraph; Waste Management Rules. Amend RSA 149-M:7 by inserting after
9 paragraph XV the following new paragraph:

10 XV-a. Relative to the safe management of solid waste. Such rules shall promote the
11 hierarchy established under RSA 149-M:3, and shall develop and enforce siting, design, operation,
12 and closure requirements.

13 3 New Paragraphs; Groundwater Protection. Amend RSA 149-M:9 by inserting after paragraph
14 XV the following new paragraphs:

15 XVI. No permit shall be issued by any division of the department for the siting of a new
16 landfill if any part of the actual solid waste disposal area is proposed to be located sufficiently close
17 to any existing drinking water well, perennial river, lake, or coastal water of New Hampshire, as
18 defined in RSA 483-B:4, XVI, such that groundwater on the landfill site would be able to reach the
19 water body within 5 years of migrating off-site due to any leak, spill, or other failure.

20 XVII.(a) The department shall establish a site-specific setback distance for any proposed
21 new landfill from any drinking water wells, perennial river, lake, or coastal water of New
22 Hampshire, as defined in RSA 483-B:4, XVI. The setback distance shall be sufficient to prevent any
23 contaminated groundwater at any part of the landfill footprint or leachate storage or piping
24 infrastructure from reaching any existing drinking water wells, perennial river, lake, or coastal
25 water of New Hampshire within 5 years. The setback distance shall be calculated as follows:

26 (1) The applicant shall hire a hydrogeologist who has never worked with or been
27 contracted through a third party with any applicant's current or previous projects, at the applicant's
28 expense, to estimate based upon adequate and representative on-site field testing of both the landfill
29 footprint and leachate storage or piping infrastructure, the estimated velocity of groundwater in both
30 surficial geological deposits and bedrock. The velocity shall be estimated by calculating the 95th

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1 percentile upper confidence limit of the mean measured rate, using the formula recommended by the
2 United States Environmental Protection Agency at EPA 600-R-97/006.

3 (2) The 5-year distance-of-travel estimate shall be calculated by multiplying the
4 velocity, in units of feet per year, by 5.

5 (3) The setback from any existing drinking water well, perennial river, lake, or
6 coastal water of New Hampshire shall be the greater of the 5-year distance-of-travel estimate
7 calculated in subparagraph (2) or 1,500 feet.

8 (b) No permit shall be issued by any division of the department for the siting of a new
9 landfill that fails to conform to the setback distance as calculated using the method set forth in
10 subparagraph (a).

11 (c) In this section, "new landfill" excludes any expansion or modification of any landfill
12 facilities on any site where, as of January 1, 2025, a RCRA Subtitle D landfill exists that has
13 received all permits necessary to operate at present and is currently operating under such permits at
14 the time it files an application to expand.

15 (d) In this section, "site" means a single parcel or adjacent parcels, owned in its entirety
16 by a landfill operator or its affiliates as of January 1, 2025, including a site where one or more public
17 utility easements traverse the site.

18 XVIII. The department shall not issue a permit for a new landfill or landfill expansion
19 unless the applicant conducts subsurface investigations in sufficient numbers and locations to
20 properly describe the surficial stratigraphy and the bedrock beneath and adjacent to the proposed
21 solid waste boundary, at least to the depth of any aquifers currently used to provide drinking water
22 to residents. Pump tests shall be conducted at selected locations as needed to evaluate aquifer yield
23 and connectivity of bedrock fractures using the department's database of the location and depth of
24 private drinking water wells.

25 XIX. All landfill facilities shall have at least one employee or contracted personnel at the site
26 24 hours a day, 365 days per year, beginning from the date the landfill begins accepting waste and
27 continuing until final closure.

28 XX. No permit shall be granted for a landfill unless undisturbed in-situ soils for 20 feet
29 immediately beneath the footprint and underneath all leachate storage and transfer infrastructure
30 have a maximum saturated hydraulic conductivity of 1×10^{-4} centimeters per second(cm/sec) or
31 less. If the above in-situ soils do not meet the maximum hydraulic conductivity criterion of 1×10^{-4}
32 cm/sec, no amount of imported soil can overcome such deficiency, and the tract shall be deemed
33 impermissible for use as a landfill.

34 XXI. No permit shall be granted for a landfill unless the subgrade below the liner consists of
35 soil with a saturated hydraulic conductivity of 1×10^{-4} cm/sec or less.

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1 XXII. All references to number-year storm events regarding solid waste landfill permitting
2 requirements in relation to design, maintenance, leachate management, etc., shall have the value of
3 a 100-year storm with a 50 percent margin of safety.

4 XXIII. The department shall incorporate the "Ford Act" found at 40 C.F.R. 258 into landfill
5 permitting requirements, specifically the provision limiting the construction or establishment of
6 municipal solid waste landfills within 6 miles of certain smaller public airports.

7 4 Permit Denial. Amend the introductory paragraph of RSA 149-M:9, IX to read as follows:

8 IX. The department [~~may~~] **shall** deny a permit application under this section to a person if
9 any of the following applies:

10 5 Rulemaking. The introductory paragraph of RSA 149-M:7 is repealed and reenacted to read
11 as follows:

12 The commissioner shall have the responsibility and authority to adopt rules, under RSA 541-A,
13 that are necessary to protect the public health and the environment with an ample margin of
14 safety relative to this chapter, including rules relative to:

15 6 Effective Date. This act shall take effect upon its passage.

HB 707-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-1041h)

AN ACT requiring the department of environmental services to revise the rules for proposed new landfills.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	\$10,000 - \$500,000	\$10,000 - \$500,000	\$10,000 - \$500,000

METHODOLOGY:

This bill requires the Department of Environmental Services (DES) to modify rules to avoid significant harms to human health and the environment, and changes the enabling statute of the DES, Solid Waste Division to require consideration of health and the environment when making future rules. The DES assumes there would be no additional cost to the State as existing staff would absorb any work needed to update administrative rules, including associated application forms, to reflect the revised statute. The DES assumes the State will not propose to site a new landfill or operate a landfill.

The DES indicates anticipated costs to a municipality that currently owns a landfill would range from \$10,000-\$100,000 if it chooses to expand an existing landfill and is required to undertake expanded subsurface investigations. The costs to ensure personnel are on site 24 hours per day, 365 days per year would range from \$100,000-\$500,000 per year. For a municipality that does not currently own a landfill, but chooses to site a new landfill, costs would range from \$10,000-\$100,000 to site a new landfill, and \$100,000-\$500,000 per year to ensure personnel on site 24 hours per day, 365 days per year.

It is assumed that any fiscal impact would occur after FY 2025.

AGENCIES CONTACTED:

Department of Environmental Services