

HB 1478-FN - AS INTRODUCED

2026 SESSION

26-2908
08/05

HOUSE BILL ***1478-FN***

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

SPONSORS: Rep. Potenza, Straf. 19; Rep. J. Aron, Sull. 4; Rep. Barbour, Hills. 35; Rep. Burroughs, Carr. 2; Rep. N. Germana, Ches. 15; Rep. Gruber, Ches. 16; Rep. S. King, Coos 4; Sen. Fenton, Dist 10; Sen. Ricciardi, Dist 9; Sen. Rochefort, Dist 1

COMMITTEE: Environment and Agriculture

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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-Six

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 velocity of groundwater in both surficial
30 geological deposits and bedrock. The velocity shall be estimated by calculating the 95th percentile

1 upper confidence limit of the mean measured rate, using the formula recommended by the United
2 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.

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 1478-FN- FISCAL NOTE
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FISCAL IMPACT:

Estimated Political Subdivision Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable Increase \$10,000 to \$600,000	Indeterminable Increase \$10,000 to \$600,000	Indeterminable Increase \$10,000 to \$600,000

METHODOLOGY:

This bill requires the Department of Environmental Services (DES) to revise its landfill siting, design, operation, and closure rules, including new setback, groundwater travel-time, subsurface investigation, hydraulic conductivity, and staffing requirements for all new landfill proposals.

DES states this bill will result in an increase in local expenditures. The impact varies depending on whether a municipality currently owns or operates a landfill and whether it chooses to expand an existing landfill or propose a new one. DES provided the following ranges:

1. Municipalities that own a non-RCRA Subtitle D landfill and seek to expand it
 - Estimated additional cost: \$10,000 to \$100,000 per year
 - These costs stem from expanded subsurface investigations required under the bill.
2. Municipalities that own and operate a landfill (any type)
 - Estimated additional cost: \$100,000 to \$500,000 per year
 - This cost reflects the bill's requirement that landfill facilities maintain on-site personnel 24 hours per day, 365 days per year, from the start of waste acceptance through final closure.
3. Municipalities that do not currently own a landfill but seek to site a new one
 - One-time siting cost: \$10,000 to \$100,000 for expanded subsurface investigations and groundwater work.

- Annual operational cost: \$100,000 to \$500,000 per year for mandatory on-site staffing requirements.

DES notes that no counties currently own or operate landfills, therefore, there is no county fiscal impact.

AGENCIES CONTACTED:

Department of Environmental Services