

HB 707 - AS INTRODUCED

2025 SESSION

25-0579

08/09

HOUSE BILL **707**

AN ACT requiring the department of environmental services to establish a site-specific setback distance 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

ANALYSIS

This bill establishes a formula for determining the distance for which a new landfill shall be located from a perennial river, lake, or coastal water.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 establish a site-specific setback distance 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 the protection of the health and safety of
2 New Hampshire citizens, drinking water sources, and our environmental waters, perennial rivers,
3 lakes, and coastal waters, from contamination is in the utmost public interest of the state of New
4 Hampshire. Therefore, the setback from a proposed landfill to such a water body should be sufficient
5 to prevent groundwater contaminated by a leak, spill, or other failure from reaching the waterbody
6 before remedial action can be implemented. A period of 5 years should be sufficient to detect and
7 map a failure, assess appropriate remediation, meet engineering and regulatory requirements, and
8 initiate the remedy.

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

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

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

16 XVI. No permit shall be issued by any division of the department for the siting of a new
17 landfill if any part of the actual solid waste disposal area is proposed to be located sufficiently close
18 to any potable-water aquifer, perennial river, lake, or coastal water of New Hampshire, as defined in
19 RSA 483-B:4, XVI, such that groundwater on the landfill site would be able to reach the water body
20 within 5 years of migrating off-site due to any leak, spill, or other failure. Nothing in this paragraph
21 shall be construed to prohibit the expansion of any landfills that are in operation at the time this act
22 takes effect.

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

29 (1) The applicant shall hire a hydrogeologist which has never worked with or been
30 contracted through a third party with any applicant's current or previous projects, at the applicant's

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1 expense, to estimate based upon adequate and representative on-site field testing of both the landfill
2 footprint and leachate storage or piping infrastructure, the maximum seepage velocity of
3 groundwater in both surficial geological deposits and in bedrock. The maximum seepage velocity
4 shall be defined as the 95th percentile upper confidence limit of the mean measured rate, using the
5 formula recommended by the United States Environmental Protection Agency at EPA 600-R-97/006.

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

8 (3) The setback from any perennial river, lake, or coastal water of New Hampshire
9 shall be the greater of the 5-year distance-of-travel estimate calculated in subparagraph (2) or 3,000
10 feet.

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

14 (c) Nothing in this paragraph shall be construed to prohibit the expansion of any
15 landfills that are in operation at the time this paragraph takes effect.

16 (d) In this section, "new landfill" excludes any expansion or modification of any landfill
17 facilities on any site which, as of January 1, 2025, a RCRA Subtitle D landfill exists that has been
18 fully permitted and is actively accepting waste.

19 (e) In this section, "site" means a single parcel or adjacent parcels, owned in its entirety
20 by a landfill operator or its affiliates as of January 1, 2025, including a site where one or more public
21 utility easements traverse the site. Perennial water bodies traversing a footprint shall still be
22 monitored in accordance with or exceeding United States Environmental Protection Agency
23 regulations and guidelines.

24 XVIII. The department shall not issue a permit for a new landfill or landfill expansion
25 unless the applicant conducts subsurface investigations in sufficient numbers and locations to
26 properly describe the surficial stratigraphy and the bedrock beneath and adjacent to the proposed
27 solid waste boundary, at least to the depth of any nearby aquifers used or potentially used to provide
28 drinking water to residents. Pump tests shall be conducted at selected locations as needed to
29 evaluate aquifer yield and connectivity of bedrock fractures using the department's own well depth
30 data.

31 XIX. All landfill facilities shall have at least one employee or contracted personnel at the site
32 24 hours a day, 365 days per year, beginning from the date the landfill begins accepting waste and
33 continuing until final closure.

34 XX. No permit shall be granted for a landfill site within a 10-mile radius to a groundwater
35 contamination active superfund site at the time of permit application.

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1 XXI. No permit shall be granted for a landfill site within a 10-mile radius of an active
2 permitted landfill facility in New Hampshire or a decommissioned landfill facility in New Hampshire
3 at the time of permit application.

4 XXII. No permit shall be granted for a landfill unless undisturbed in-situ soils for 20 feet
5 immediately beneath the footprint and underneath all leachate storage and transfer infrastructure
6 shall have a maximum saturated hydraulic conductivity of 1×10^{-5} centimeters per second or less.
7 If the above in-situ soils criteria do not meet the maximum hydraulic conductivity criterion of $1 \times$
8 10^{-5} cm/sec, no amount of imported soil can come such deficiency and the tract shall be deemed
9 impermissible for use as a landfill.

10 XXIII. No permit shall be granted for a landfill unless the subgrade below the liner shall
11 consist of a soil with a saturated hydraulic conductivity of 1×10^{-5} centimeters per second or less.

12 XXIV. All references to number-year storm events regarding solid waste landfill permitting
13 requirements in relation to design, maintenance, leachate management, etc. shall have the value of
14 "200-year storm."

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

18 XXVI. No permit for the operation of a solid waste landfill shall be issued in New
19 Hampshire to any applicant who has been found in violation of any federal, state, or local
20 environmental laws, regulations, or permit conditions anywhere in the United States.

21 (a) For the purposes of this section, a violation includes, but is not limited to, violations
22 related to the improper handling, disposal, or management of waste; environmental contamination;
23 non-compliance with health and safety standards; or failure to meet any legal obligations imposed by
24 relevant regulatory authorities.

25 (b) The determination of violations will be based on records from federal, state, or local
26 regulatory agencies, including enforcement actions, citations, fines, or other legal findings that
27 indicate non-compliance with applicable laws or regulations.

28 (c) The prohibition on permit issuance under this section shall apply for a period of 3
29 years following the final resolution of any violation, or until the applicant has demonstrated full
30 compliance with all relevant laws and regulations to the satisfaction of the permitting authority.

31 4 Rulemaking. The introductory paragraph of RSA 149-M:7 is repealed and reenacted to read
32 as follows:

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

36 5 Effective Date. This act shall take effect upon its passage.