

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1478-FN, requiring the department of environmental services to revise the rules for proposed new landfills.

Hearing Date: April 14, 2026

Time Opened: 10:56 a.m.

Time Closed: 11:34 a.m.

Members of the Committee Present: Senators McConkey, Watters and Rosenwald

Members of the Committee Absent : Senators Avard and Pearl

Bill 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.

Sponsors:

Rep. Potenza

Rep. J. Aron

Rep. Barbour

Rep. Burroughs

Rep. N. Germana

Rep. Gruber

Rep. S. King

Sen. Fenton

Sen. Ricciardi

Sen. Rochefort

Who supports the bill: 51 Individuals signed in Support of the legislation. Please Contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: 3 Individuals signed in Opposition of the legislation. Please Contact Joshua.Schauer@gc.nh.gov for more information.

Who is neutral on the bill: 1 Individual signed Neutral on the legislation. Please Contact Joshua.Schauer@gc.nh.gov for more information.

Summary of testimony presented:

Representative Kelley Potenza, Strafford 19

- She introduced the bill and said that it had come before the Senate committee previously and has been part of an ongoing effort to improve existing rules. She explained that she served on the study committee responsible for looking into the rulemaking process, and that extensive work had been done in collaboration with stakeholders and legislators to reach the current proposal.

- She stated that the new Department of Environmental Services (DES) rules were initially found by JLCAR to be contrary to the public interest, but were later reversed. She emphasized that it is ultimately the legislature’s responsibility to make statutory changes.
- She stated that new greenfield sites current standards are among the weakest in any Western country. She also noted that she has addressed prior concerns to ensure alignment with existing rules.
- She highlighted that the primary concern relates to groundwater travel time. She said that the only objection to the bill from opposition is based on how groundwater travel time is measured outside the landfill footprint, where results may vary. She argued that the current standard is unreliable and unrealistic based on observed conditions.
- She further contended that if uncertainty is sufficient to invalidate the proposed five-year standard, then it would also call into question the validity of the existing rules that DES has in place.
- She added that the current rules are vague, and that this bill would provide clarification. In her view, the proposal is objectively stronger, more enforceable, and represents a “gold standard” in environmental law.

Senator Rosenwald asked whether, based on her understanding, landfill leachate could contain substances such as PFAS, pharmaceuticals, and other contaminants that could enter groundwater.

Representative Potenza said that this is correct, explaining that leachate is highly toxic waste. In addition to PFAS, she noted that many other harmful substances can be present. She emphasized that a single landfill can generate millions of gallons of leachate over its lifetime, and that even after closure, it can continue producing leachate for 50 to 100 years. She added that this material cannot simply be removed, as it would otherwise reenter rivers and other waterways. She also stated that only one new greenfield landfill site would be needed to serve the entire state.

Senator Rosenwald emphasized the importance of public health, particularly in relation to drinking water. She referenced a proposal from several years ago for an asphalt plant in Nashua, noting that during a DES hearing, the agency stated that it is not responsible for protecting public health. She said she had asked at the time how the department would prevent an increase in childhood asthma. She reiterated that DES oversees such sites and asked whether she agreed that it is the department’s responsibility to protect human health.

Representative Potenza agreed, adding that New Hampshire ranks second in childhood cancer rates, and questioned what factors in food, water, and the environment may be contributing. She stressed that the state has no advantage if it cannot maintain clean water and natural spaces, and that people cannot thrive without strong environmental protections. She further noted that Rochester, her district, is home to the largest landfill in the state, and that she frequently hears about its problems. She added that the state lacks sufficient recycling infrastructure and continues to rely on outdated waste management practices.

Representative Nicholas Germana, Cheshire 15

- He expressed support for DES, noting that the agency does a significant amount of important work for the State.
- He explained the background of the bill and the main priority was that the setback distance should be determined based on the groundwater travel time, emphasizing that distance is a function of time, specifically, how long it takes a pollutant to reach a water source. The goal, he said, is to establish an appropriate setback distance that adequately protects water quality.
- He noted that this framework was provided to the department; however, DES chose to rely on prior standards, which he said were inconsistent with the recommendations of the subcommittee as well as standards used in other states.
- He added that when the rules went to Joint Legislative Committee on Administrative Rules, they objected but moved it forward because they cannot create policy, but only review rules as JLCAR is not a policy committee.
- While he acknowledged that it is generally not ideal to legislate on highly specific technical standards, he argued that given past experience with the department, it is necessary to codify the standard into law.
- He concluded that the proposed standard would help strengthen New Hampshire's environmental protections and provide a clearer regulatory "New Hampshire advantage".

Representative Linda Haskins, Rockingham 11

- She said that this legislation has come before the committee because of the bipartisan group in the House, which has a large focus on landfill issues. She stated that the hearing at JLCAR was disappointing, and that this bill is the result of the committee's work to establish a clear standard.
- She explained that incorporating these provisions into the rules were necessary because the statute did not provide sufficient detail. The five-year travel time is a critical component of this effort, and she urged the committee to support it.
- She also emphasized the importance of ensuring safety, noting that leachate is toxic and its lifespan being so long.

Susan Richmond, Durham

- Ms. Richmond said she represents the average person and expressed concern about microplastics present in leachate.
- She explained that HB 1478 accounts for the fact that water travels differently depending on geological conditions and uses that knowledge to establish safe setback distances for any proposed landfill.

- She added that the bill also provides important safety standards and protective provisions and is helping keep granite staters safe.

Mike Wimsatt, Waste Management division DES

- Mr. Wimsatt stated that the Department takes no formal position on the bill but wanted to highlight several areas where technical language may be misrepresented or unclear.
- He noted that Section 3 establishes setback requirements and a five-year groundwater travel time standard. However, he explained that DES maintains its current rules and standards are more reliable, more capable, and ultimately more protective. He emphasized that DES relies on extensive data regarding water movement and soil characteristics and is required to make determinations that ensure contamination is remediated before it can occur, an approach he described as more protective than what the bill proposes.
- He also raised concerns about prioritizing property lines over actual receptors. In addition, he questioned why existing facilities are exempt from certain protections, arguing that they should be held to the same standards.
- He pointed to language on page 3, lines 5–7, noting that it changes aspects of rulemaking. He questioned whether the intent is to require a defined or quantitative measure, stating that the current wording is unclear and creates ambiguity around that distinction.
- He referenced page 2, line 30, expressing concern about how measurements, such as maximum hydraulic conductivity or single-location data points, are applied. He noted that, as written, the provision could be interpreted in a way that fails to account for site variability and could potentially exclude an entire site based on limited data.

Senator Watters referenced page 3, line 1, where the word “may” is changed to “shall.” He noted that subsection (c) refers broadly to any felony conviction, potentially encompassing a wide range of individuals, and asked whether it is appropriate to require “shall” rather than allowing discretion with “may.”

Mr. Wimsatt did not directly comment on that specific change but stated that the language, as written, is appropriate and that the department is prepared to implement the provision. He emphasized that such determinations are significant decisions made in consultation with Department of Justice counsel and noted that some level of discretion can be beneficial.

Senator Rosenwald asked whether landfill liners have ever leaked. Wimsatt responded that landfill systems are highly complex and are required to use double liners. He explained that these liners are not the weak point suggested in earlier testimony, as they are subject to strict design, installation, and preparation requirements. The double-liner system is designed so that any leakage from the first liner is captured by the second.

Mr. Wimsatt acknowledged that leaks have occurred in New Hampshire landfills, but explained that groundwater monitoring systems are designed to detect them early. When a leak is identified, it triggers an investigation and more extensive monitoring. While leaks can occur, the systems are designed to ensure safety and prompt corrective action. He added that double-liner systems have proven to be very effective.

Senator Rosenwald also asked how the state can ensure that a leak would not reach surface water before being detected, particularly in cases where soil conditions may be limited. Wimsatt explained that significant analysis of soil and site conditions is conducted during landfill design and permitting. This includes estimating groundwater travel times and understanding the hydrological characteristics of the area.

Mr. Wimsatt noted that sentry wells are required around landfills and are monitored multiple times per year. The data is reviewed by DES, and any sign of contamination immediately triggers an investigation. Monitoring continues until conditions return to acceptable standards.

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Date Hearing Report completed: April 16, 2026