

Floor Amendment to SB 180-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT designating Coos county as a distressed place-based economy and requiring the  
4 department of environmental services to revise the rules for proposed new landfills.

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6 Amend the bill by replacing all after section 3 with the following:

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8 4 Statement of Purpose. The general court finds that protecting the health and safety of New  
9 Hampshire citizens, drinking water sources, and our environment, including drinking water wells,  
10 perennial rivers, lakes, and coastal waters, from contamination is of utmost public interest.  
11 Therefore, based on legislative intent informed by public and expert testimony from New Hampshire  
12 citizens and key stakeholders, the department of environmental services' 800 rules for proposed new  
13 landfills are found to be insufficiently protective in certain sections. The following provisions provide  
14 the department with direction, policy changes, and purpose in rulemaking.

15 5 New Subparagraph; Waste Management Rules. Amend RSA 149-M:7 by inserting after  
16 paragraph XV the following new paragraph:

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

20 6 New Paragraphs; Groundwater Protection. Amend RSA 149-M:9 by inserting after paragraph  
21 XV the following new paragraphs:

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

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

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1           (1) The applicant shall hire a hydrogeologist who has never worked with or been  
2 contracted through a third party with any applicant's current or previous projects, at the applicant's  
3 expense, to estimate based upon adequate and representative on-site field testing of both the landfill  
4 footprint and leachate storage or piping infrastructure, the estimated velocity of groundwater in both  
5 surficial geological deposits and bedrock. The velocity shall be estimated by calculating the 95th  
6 percentile upper confidence limit of the mean measured rate, using the formula recommended by the  
7 United States Environmental Protection Agency at EPA 600-R-97/006.

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

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

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

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

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

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

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

33           XX. No permit shall be granted for a landfill unless undisturbed in-situ soils for 20 feet  
34 immediately beneath the footprint and underneath all leachate storage and transfer infrastructure  
35 have a maximum saturated hydraulic conductivity of  $1 \times 10^{-4}$  centimeters per second(cm/sec) or  
36 less. If the above in-situ soils do not meet the maximum hydraulic conductivity criterion of  $1 \times 10^{-4}$

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1 cm/sec, no amount of imported soil can overcome such deficiency, and the tract shall be deemed  
2 impermissible for use as a landfill.

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

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

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

11 7 Permit Denial. Amend the introductory paragraph of RSA 149-M:9, IX to read as follows:

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

14 8 Rulemaking. The introductory paragraph of RSA 149-M:7 is repealed and reenacted to read  
15 as follows:

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

19 9 Effective Date.

20 I. Sections 1 -2 of this act shall take effect 60 days after its passage.

21 II. Section 3 of this act shall take effect July 1, 2045.

22 III. The remainder of this act shall take effect upon its passage.

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2025-2474h

AMENDED ANALYSIS

This bill designates Coos County as a distressed place-based economy and requires commissioners of state agencies to consult with county commissioners before making regulatory decisions that would affect Coos County.

The bill also 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.