

‘Trash juice’ gets a legislative spotlight following management failures

BY: **CLAIRE SULLIVAN** - NOVEMBER 26, 2024 5:00 AM



Casella Waste System's Bethlehem landfill had hundreds of violations within a year. (Department of Environmental Services)

When it rains over a landfill, water trickles through the waste, picking up contaminants in the trash and forming a polluted liquid called leachate.

Lawmakers will consider a bill next session that would create more comprehensive requirements around the leachate management plans in permit applications for new landfills, including adding a new requirement that these plans contain details about handling leachate after the closure of the landfill, according to its sponsor.

The move comes after several landfills in the state had recent issues handling the so-called “trash juice” that can contain heavy metals, PFAS, and other harmful substances, according to the Department of Environmental Services. Failing to properly manage leachate can pose grave safety and environmental risks.

“So far, this is a problem that has not really received anywhere near the attention that it deserves,” Rep. Nicholas Germana, a Keene Democrat who is leading the legislation, said of leachate management.

This legislation would put the requirement for leachate management plans into statute, in addition to creating stricter requirements. It would include language that requires DES, before issuing a permit, to make a positive determination that the permit application includes a detailed leachate management plan. It would also make it so those seeking landfill permits would have to demonstrate that their contracts for transporting and processing leachate are enforceable under law.

It's one of several landfill issues lawmakers seek to address when they convene early next year. Other bill requests would put a moratorium on new landfills until 2030, require DES to set site-specific setback distances for future landfills, and mandate those applying for permits to submit a report outlining the potential harms and benefits of their proposals. Bills for the next legislative session are still in the drafting stage.

Advocates say more detailed requirements for handling leachate are necessary in light of the issues that have cropped up at landfills around the state and the challenges posed by intense rain events.

“The existing rules regarding leachate management cover basically what happens on the site of the landfill,” said Eliot Wessler, a Whitefield resident involved in solid waste advocacy, “but there’s virtually no rules about how the leachate is transferred off site and how certain the disposal ... of the leachate is, so that’s the genesis of it (the bill) is, you know, to strengthen the state’s rules.”

He added: “We’re hopeful that there’ll be bills ... that cover leachate management at existing landfills, but at least at the margin for any new landfill, there should be a lot more attention paid to how the leachate is going to be managed, how it’s going to be stored on site, but mostly how it’s going to be removed from the site, and how it’s going to be treated before it goes into our ecosystem.”

The state currently requires landfills to: have at least two locations for leachate disposal; estimate how much leachate they will generate; and describe how leachate will be handled at the landfill before being shipped somewhere else for disposal, according to DES. They must also have procedures in place to bring down leachate levels to a foot or lower within a week of a 100-year storm event. Regulations also include details about on-site leachate management systems.

“As part of the facility’s operating plan,” DES said in a statement, “the leachate management plan must provide sufficient detail to allow the certified operator and other trained facility personnel to operate the facility in compliance with RSA 149-M, the facility’s permit, and the solid waste rules without further explanation or guidance.”

DES found failures to properly manage leachate at several landfills around the state this year. One facility that has attracted particular scrutiny is the landfill in Bethlehem operated by Vermont-based Casella Waste Systems, which failed hundreds of times within a year to keep leachate to its required levels and to file mandatory reports, data, and investigations with the state.

The Bethlehem landfill on hundreds of occasions had leachate levels above 1 foot, the maximum level the state requires landfills to maintain except in certain heavy rain events. Once, leachate stood at 116 inches, almost 10 times higher than it should have been per state requirements.

In the foreground of solid waste conversations in the state is Casella's bid to build another landfill in the northern part of the state just half a mile from a pristine lake. Those pending permit applications have also shrouded proposed updates from DES to the state's landfill regulations, which a group of lawmakers recently sent the department back to work on.

Though the Bethlehem landfill outnumbered others in terms of its sheer quantity of violations, it was not the only facility where DES found leachate issues.

A city-run landfill in Lebanon had leachate breakouts in 13 areas, including five releases beyond the facility and into the environment. It did not immediately notify DES, as required, and at least some of the issues were not handled in "a timely manner," the department said. And in Rochester, a landfill run by Waste Management of New Hampshire had at least 13 leachate discharges between December 2022 and late April of this year, presenting "an ongoing operational issue," DES wrote in May.

Tom Tower, vice president of the North Country Alliance for Balanced Change, a citizen group that has rallied against Casella's new landfill and for solid waste reform, said heavy rain events put increased stress on landfills, pointing to Bethlehem in particular.

"We need to be prepared for not just what ... is considered ordinary, but also what are considered to be somewhat the extremes of the goal posts," Tower said of the weather events, "because we've seen what can happen when you get an inordinate amount of rain like this, and it doesn't appear to be changing anytime soon."

Germana – who said he expects the bill to attract a bipartisan group of sponsors – raised a similar point.

“Certainly as we’re seeing a higher frequency of these kind of 50-year or 100-year storms and floods, our landfills throughout New England are just not really equipped to deal with the creation of such large quantities of leachate so quickly,” he said.

This legislation aims to make sure landfill operators are adequately prepared, Germana said.

“Rather than requiring kind of a micromanaged, top-down approach,” Germana said, “it is saying to these operators, you need to think about all these things in advance and come up with a comprehensive plan to deal with them.”