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DES faces skepticism over transparency in landfill regulations



Conway public works staffer Tim Shackford gets ready to dump of dirt over the garbage in the city landfill on Wednesday, January 18, 2023. GEOFF FORESTER

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For Cheryl Jensen, issues related to landfills hit close to home. She lives in the town of Bethlehem, home to the North Country Environmental Services landfill, which serves as the dumping ground for waste from across the state and some that is trucked in from Massachusetts.

As the co-chair of the conservation commission, Jensen is committed to protecting the environment and has always been resolute in her opposition to any projects that could pose a threat to it.

In the past, Jensen has been outspoken in her opposition to the expansion of the NCES landfill in town. And as the state initiates the process of revising its landfill siting rules, which could potentially pave the way for another landfill in the North Country, she has grown skeptical of the Department of Environmental Services' objectivity.

Jensen is concerned that the department may be biased toward waste management companies at the expense of the health of the community and the environment.

“Going forward with the changes to the siting, how much weight is DES going to give to input from Casella Waste on these rule changes, versus the input that it might get from the people?” Jensen asked during an online public session hosted by the state agency last week. She said she was speaking on behalf of herself not as a town official.

Jensen’s concerns stem from her prior interaction with DES in 2017, when the expansion of the North Country Environmental Services landfill, run by Casella Waste Systems, was under consideration and the agency failed to effectively address the public’s concerns.

“In the past, DES has just discounted most – if not all – of our concerns, so I’m not sure that this going to be any different,” said Jensen, who was apprehensive about whether the same pattern might follow during the revision of the state’s solid waste rules.

The lack of confidence in the state’s environment department became evident during the session, which was scheduled to gather feedback on proposed changes to regulations that govern where landfills can be located. Instead of addressing the proposed changes, many attendees veered off-topic and expressed their concerns about the agency’s due process.

State Rep. Linda Haskins, a member of the House Environment and Agriculture Committee, said members of the public and her committee recognize the importance of monitoring actions that influence the safety of New Hampshire citizens and that the responsibility rests with lawmakers.

“I think what I’m hearing and seeing among the environmentalists in the caucus is that we also have a greater responsibility than we had even understood previously,” Haskins said, acknowledging the industry’s pressure on agencies. “We intend to shepherd this process, as is our right, and we intend to get the people who are most impacted by these decisions to get their voices heard.”

The state is witnessing a grassroots movement as more and more individuals are actively engaging in environmental issues that were previously seen as beyond their concerns.

The public’s interest in the impact these decisions have on society has grown exponentially, with a particular emphasis on solid waste management, largely influenced by the events during the legislative session, participants agreed.

After the legislative session ended without any bills passed to modify landfill siting rules, the state agency is under pressure to revise its solid waste management rules that expire next year.

The proposed revisions currently under consideration lack specific details, but they do mention a potential revision to the setbacks from surface waters, residential properties and wetlands. Additionally, there are ideas being evaluated regarding the expansion of landfill setback requirements to apply to leachate management systems and stormwater ponds.

The agency anticipates proposing rules around the beginning of the upcoming year. The goal is to meet the deadline of readopting rules with amendments before they expire on July 1, 2024.

Michael Wimsatt, director of the Waste Management Division of the state agency said the rulemaking will follow a standard process, including a public hearing and comment period.

New Hampshire’s landfill capacity is projected to last for a decade, given the current waste disposal rate. However, by diverting waste from landfills and implementing effective waste reduction measures, particularly targeting out-of-state trash that constitutes nearly 50% of landfill waste

annually, the state's landfill capacity could be extended.

"How would that shape the process of considering a permit under the current rules since we are now in the process of writing new rules?" asked State Rep. Nicholas Germana (D-Cheshire), who was appointed to a committee to study out-of-state waste.

The state's environmental agency has the responsibility to review any application that is submitted within the rules in the law, said Wimsatt.

"Any application that we get will be required to analyze the capacity need during the 20-year planning period and we would review that as part of our review to make a decision on any application that's before us," explained Wimsatt.

Despite the efforts of Department of Environmental officials to keep the discussion focused on seeking comments on landfill site requirements, attendees repeatedly brought up the influence of industries on the solid waste bills during the legislative session and advocated for stronger environmental safety measures.

Doubts about the state agency's approach to rule-making were exacerbated by recent [email communications](https://www.concordmonitor.com/Email-exchanges-between-DES-and-lobbyist-SB-61-51445724) (<https://www.concordmonitor.com/Email-exchanges-between-DES-and-lobbyist-SB-61-51445724>), which were pointed out by several attendees. The emails suggest that the agency had discussed the language on solid waste bills with representatives from Casella Waste Systems, raising concerns about transparency.

Wimsatt attempted to clarify.

"Characterization that the agency's asking permission (from industry representatives) is completely false and misleading," he said.