

HB 1454-FN - AS INTRODUCED

2022 SESSION

22-2237
08/11

HOUSE BILL ***1454-FN***

AN ACT relative to permits for the siting of new landfills.

SPONSORS: Rep. Tucker, Coos 5; Rep. Thompson, Coos 1; Rep. Massimilla, Graf. 1; Rep. Egan, Graf. 2; Rep. Hatch, Coos 6; Rep. Merner, Coos 7; Rep. Laflamme, Coos 3; Rep. Myler, Merr. 10; Rep. Deshaies, Carr. 6; Sen. Hennessey, Dist 1; Sen. Sherman, Dist 24

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill prohibits the siting of landfills within a proscribed distance of groundwater sources.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

22-2237
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to permits for the siting of new landfills.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Landfill Permits; Groundwater Protection. Amend RSA 149-M:9 by inserting after paragraph XIV the following new paragraphs:

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

(b) To determine the individual, site-specific, distance of this setback, the applicant shall hire an independent hydrogeologist, at the applicant's expense, to estimate, based on local field testing, the reasonable maximum seepage velocity of shallow or deep groundwater, whichever is the larger estimate. That estimate shall be expressed in units of "X feet per year." The setback in subparagraph (a) shall then be set at a distance of 5 times X. If at a particular site, X is estimated to be less than or equal to 40 feet per year, no new landfill shall be sited within 200 feet of any lake or river, as is currently the setback specified in rules.

(c) If a permit is granted for a new solid waste landfill under this section, the operator shall establish one or more networks of groundwater monitoring wells such that each nearby lake or river shall have a network at a distance of 5 times X feet from the water body. The operator shall monitor each well at least every six months, for all of the EPA

Priority Pollutants listed in 40 C.F.R. Part 423, Appendix A, as well as the 4 per fluorinated chemicals regulated by the state (PFOA, PFOS, PFNA, and PFHxS). If any of the pollutants monitored for is detected above baseline concentrations, landfilling at the site shall immediately cease, until the plume of contamination is mapped, intercepted, and remediated.

2 Effective Date. This act shall take effect upon its passage.

LBA
22-2237
11/17/21

**HB 1454-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to permits for the siting of new landfills.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

LOCAL:

Revenue	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill would require new landfills to be sited a certain minimum distance from any perennial river, lake, or coastal water of New Hampshire. The Department of Environmental Services makes the following assumptions regarding this bill:

- It would apply to landfills permitted after the effective date of the bill, and not to expansions of existing landfills.
- The “operator” identified in subparagraph (c) is referring to the person responsible for implementing and complying with the groundwater monitoring permit requirements of RSA 485-C.
- The subparagraph (a) “sufficiently close” distance is that distance identified in subparagraph (b) of five times X or 200 feet, whichever is greater.
- The groundwater monitoring network discussed in subparagraph (c) may be located within the five times X or 200-foot, whichever is greater, disposal area setback distance.
- The setback distance is from all “public waters” as defined in RSA 483-B:4, XVI.

The Department states it would need to integrate the bill requirements into the solid waste facility permitting application and review process as well as the groundwater permitting application and review process, including revising relevant NH Code of Administrative Rules and application forms. While they state that additional staff is not needed, it is expected more staff time would be required to complete reviews and compliance assessments, which may result in an increase in state expenditures.

To the extent that a local government elects to own and operate a new landfill, the Department assumes the local government's proposed landfill would be subject to the bill and the cost to permit and operate such a landfill would increase. Furthermore, a host municipality receives revenue from an operating landfill and such revenue may decrease due to increased permitting and operating costs, and/or due to any stoppage of landfilling activities resulting from a detection of groundwater impacts and associated investigation and remediation requirements.

AGENCIES CONTACTED:

Department of Environmental Services