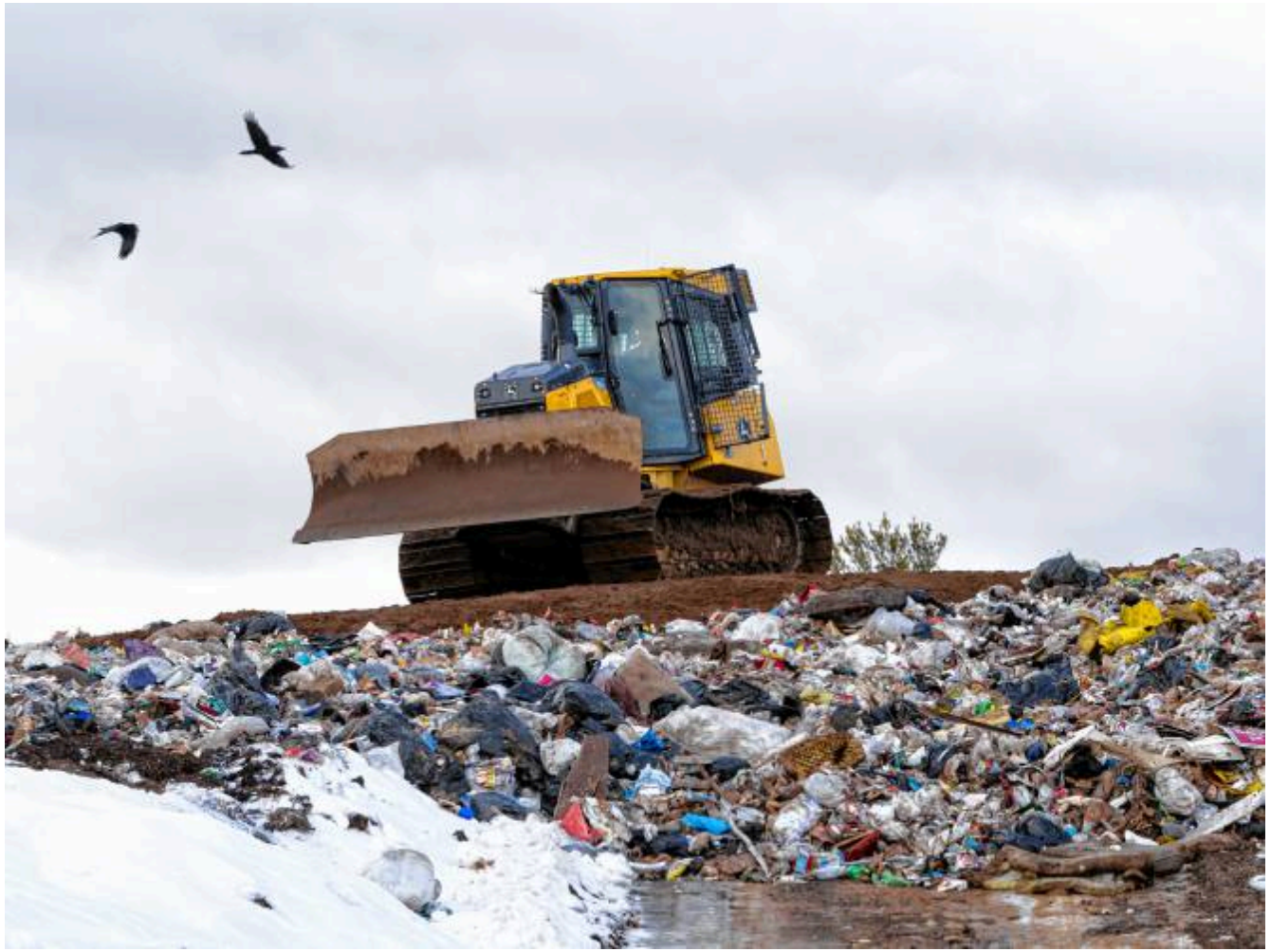
Environmental advocates wary of state's industry-friendly solid waste rules



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

By SRUTHI GOPALAKRISHNAN

Monitor staff

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After years of operating under outdated solid waste regulations, the New Hampshire Department of Environmental Services has proposed updated rules, but environmental advocates are concerned these changes may favor the waste industry over environmental protection.

The draft of the new regulations, presented to the solid waste subcommittee first in October, has undergone substantial revisions, with a public hearing scheduled for Monday at 1 p.m. at the DMV building auditorium in Concord.

One of the most contentious changes involves the standards for hydraulic conductivity at landfill sites. Hydraulic conductivity is crucial for containing leachate — a toxic wastewater produced by landfills — by measuring how easily fluids can move through the soil or rock at a landfill site.

Initially, the draft required that landfill sites be selected so that leachate would not move more than two feet per day through the surrounding geology. The latest draft, however, has relaxed this standard, allowing leachate to move up to 15 feet per day. The measure would permit landfills to be located in areas in the state where the leachate could travel 50% further in one day than what is allowed in Maine over a year.

The longer it takes for the leachate to flow through the ground, the more manageable it becomes to control, clean up, and protect nearby water bodies and wells.

According to Adam Finkel, an environmental scientist, the state government is reducing the standards to allow Casella Waste Systems' permit application for a landfill near Forest Lake to sail through either "on their own volition or because they're getting pressure from the company."

"DES had to keep weakening this to let the permit go through the new rule," said Finkel. "They've reverse-engineered the regulation in order to get the permit approved and that's certainly improper, certainly shameful and I would say illegal because that's not how it's supposed to be."

The proposed landfill site in Dalton is in an area with sand and gravel, which allows liquids to flow more easily than clay, raising worries about leachate pollution of water sources.

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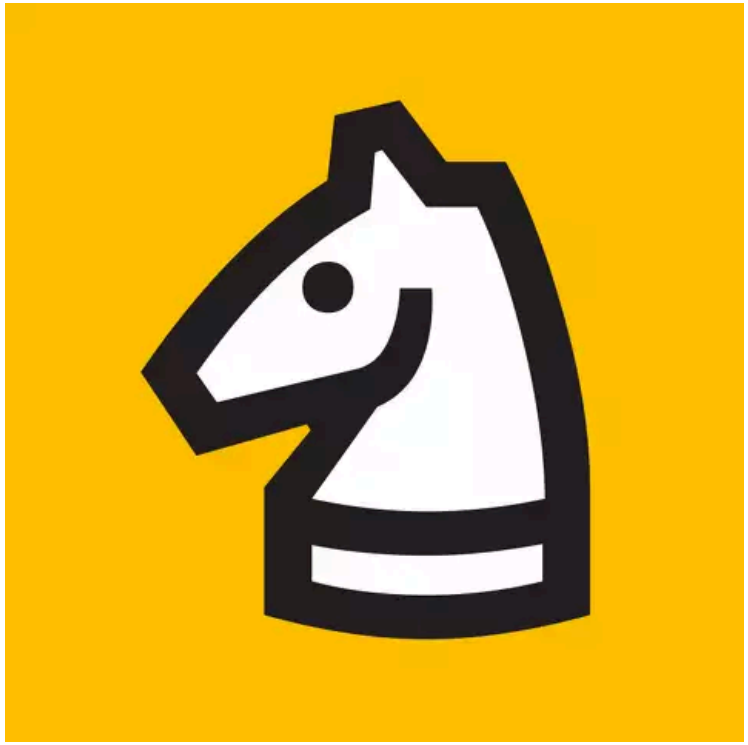

Really Bad Chess

Michael Wimsatt, Director of DES's Waste Management Division, explained during a January subcommittee meeting that DES relaxed the regulations from the initial draft after industry feedback. Industry representatives expressed concerns that the proposed rules would force the closure of all their facilities in the state and prevent any new facilities from being sited or expanded.

"So we have to figure out where in the middle of that gives us the level of protection that we really want and desire while also not eliminating all the sites or creating a situation where the way we write the rule makes it really uncertain about whether a facility can demonstrate that compliance with the rule," explained Wimsatt.

Comparison of protective measure of landfill siting rules

Siting Rules for Landfills	New Hampshire	Maine	Vermont
Hydraulic Conductivity	15 feet per day	10 feet per year	10 feet per month
Setback limit from water body	500 feet	Time it takes to contaminats to reach water source	Time it takes to contaminats to reach water source
Exploration of Bedrock and Water Table	No	Yes	Yes

Large landfill operators in the state, such as Casella Waste Systems and Waste Management, also manage landfills in Maine and Vermont, where regulations are more stringent.

"The concern is that the agency has weakened the requirements with respect to where you can locate a landfill, the citing part of the rules," said Muriel Robinette, a licensed geologist. "They've made it orders of magnitude easier to put a landfill in New Hampshire than many, many, many other states."

In Vermont, state regulations mandate that the soil's conductivity at the selected landfill site should not surpass 10 feet per month, while in Maine, it is set at 10 feet per year.

In New Hampshire's new regulations, the durations for soil or other porous materials to allow leachate movement are shorter, and they're also averaged. This means that conductivity measurements may vary across the landfill site, with one area allowing leachate movement at 25 feet per day, while another may only permit five feet per day and still remain within the rule.

Another factor that distinguishes New Hampshire's regulations, placing them below the standards of neighboring states, is the setback limits from water sources aimed at contamination prevention. Rather than measuring the time it takes for contaminants to reach surface water, the state agency uses distance measurements.

"The setback is a joke. The setback numbers are meaningless," said Robinette about the state increasing the setback from 200 feet to 500 feet as an arbitrary number.

Environmental advocates acknowledge that improvements have been made in the new rules, particularly in expanding the floodplain zone and bolstering liner requirements. However, instead of depending on site-specific conditions for environmental protection, these rules rely

on the engineering and operational aspects of landfills, which could prove inadequate in the event of human error.

"Other states recognize the value of relying upon the natural sight, the mother nature to help contain the contaminants rather than over-engineering of double safeguards to try to be protective," said Robinette. "Landfill is a source of contamination for decades."