

With 'trash juice' bill, lawmakers seek safer management of landfill leachate

BY: CLAIRE SULLIVAN - JANUARY 29, 2025 5:00 AM



Jon Swan, of Dalton, founder of Save Forest Lake, speaks at a legislative hearing on Tuesday, Jan. 28, 2024. (Claire Sullivan | New Hampshire Bulletin)

When North Country advocate Wayne Morrison became involved in waste issues years ago, he thought about the immediate, visible impacts of a landfill: the “mountain of trash,” the noise, the scavenger birds, the traffic.

What wasn't on his mind was what he described as an invisible danger: leachate, or the so-called “trash juice” created when rain and snow mix with waste. It's a “cocktail of heavy metals, toxins, (and) PFAS” that the state's landfills produce millions of gallons of each year, Morrison said.

Failures at several landfills around the state to properly manage leachate – including one in the small, northern town of Bethlehem that racked up hundreds of violations within a year – have brought legislative attention to the issue. Through House Bill 566, a bipartisan group of lawmakers want to make permit applicants think harder about how they'll manage leachate, including after the closure of their proposed facilities.

“I have come to learn that leachate is much greater risk to our health and our safety than that mountain of trash that we can all see very visibly,” said Morrison, president of the North Country Alliance for Balanced Change, a citizen group focused on solid waste issues, in a hearing Tuesday on the bill.

Leachate is typically trucked or piped to wastewater treatment facilities, meaning its potential impact on public health and the environment isn't confined to the footprint of a landfill. Advocates have raised concerns about the further spread of the persistent class of man-made chemicals known as PFAS, which are linked to serious health effects, including some cancers. “I am guessing that your constituents near those wastewater treatment plants have no idea what's being released,” Morrison told lawmakers.

It also intersects with another environmental issue: climate change. Addressing leachate management has been made more pressing by frequent and intense storm events, said Rep. Nicholas Germana, the Keene Democrat leading the bill. Landfills are required by the state to keep leachate levels below 1 foot on their liners, a task made more difficult by extreme rainfall.

The state already requires landfills to make certain plans around the management of leachate. Operators must 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 the Department of Environmental Services. 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.

This bill seeks to create more comprehensive requirements for leachate management, including by making applicants plan for it in the post-closure life of their proposed landfills. It also would put the requirement for leachate plans into state law, rather than existing only in the agency's rules. That distinction can be meaningful, said Michael Wimsatt, director of DES' solid waste management bureau.

"I think what it really does is just puts the current practice into law, and in our experience with respect to doing compliance assurance and enforcement, having provisions directly in statute is powerful," Wimsatt said. "You have to do it carefully, because you can't have statutes that are so lengthy and detailed that they're going ... to look like administrative rules, but for certain things, it's nice to have that clear, explicit authority in the statute."

Wimsatt said the department was not taking a position on the bill.

Lawmakers questioned the bureau head on the department's enforcement of its rules around leachate. They pointed specifically to the Bethlehem landfill run by the Vermont-based company Casella Waste Systems, which the department found failed hundreds of times to keep leachate to its required levels and to file mandatory reports, data, and investigations with the state. These issues – as well as others at different facilities – were outlined in letters of deficiency the department sent to landfill operators last year.

One facility with "significant violations" related to keeping leachate to required levels was referred to the Department of Justice for enforcement, Wimsatt said without explicitly naming the facility. He indicated he was limited in his ability to speak further on the topic.

Public records show that Casella was preparing for a site visit from the DOJ and DES in September. In an October response to a public records request from the Bulletin, DES said it “cannot comment on the purpose of this meeting and has no responsive documents to this request.”

Wimsatt told lawmakers Tuesday that “it disadvantages the state’s case whenever a state employee who’s involved in enforcement discusses publicly the details of that case.”

Talking about enforcement generally, Wimsatt said there are provisions that allow applicants to request a waiver if they feel they can’t comply with a specific rule. If certain criteria are met, the department may approve that request – but such waivers are granted sparingly, Wimsatt said. He said he doesn’t believe the department has received any applications to waive leachate management rules, and that DES “always endeavors to enforce all of its rules, including the leachate rules.”

Natch Greyes, vice president of public policy for the Business & Industry Association, said the group opposed the bill and questioned whether it was necessary considering existing regulations on the issue.

“I’m not sure what this legislation adds to the regulatory framework, other than to freeze it in place,” Greyes said.

That position would likely not change even following proposed changes to the bill that Germana described at the start of the hearing, Greyes said.

The lawmaker said he planned to make several changes to the bill following conversations with officials at DES and the Turnkey landfill in Rochester run by Waste Management. For instance, he would seek to take out language that he said would require applicants to demonstrate they had contracts running 20 or 30 years into the future. Instead, Germana said, they would have to demonstrate a plan for managing the specifics laid out in the bill but not those long-term contracts.

Germana also said he would, at the suggestion of DES, seek an amendment to also include applications to expand existing landfills under the parameters of the bill.

He argued the bill “does not in any way hamper innovation,” and that it will allow facilities to adjust their leachate management practices as the industry develops, pointing specifically to evolutions around treating PFAS.

Tom Tower, vice president of the North Country Alliance for Balanced Change, urged lawmakers to prioritize the issue.

“Every bill that comes before, you know, this committee is important – and I’ve seen an awful lot of them over the years – but not all of them are urgent,” he said. “This one is urgent.”