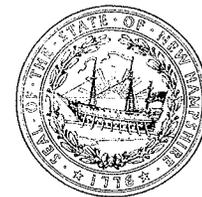




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

February 3, 2011

The Honorable Andrew Renzullo, Chairman  
House Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, New Hampshire 03301

Re: HB 266-FN, an act relative to the submission of plans for sewage and waste disposal systems

Dear Chairman Renzullo:

Thank you for the opportunity to comment on HB 266-FN, which would require the Department of Environmental Services (DES) to provide a waiver from any requirement that the number of bedrooms in a residence be submitted as part of the application process for any person proposing to construct a sewage waste disposal system for a residence constructed prior to 1989. DES does not support HB 266 as proposed because it does not require sufficient information to adequately assess the actual wastewater loading that a lot can support or whether a waiver is appropriate. However, we would welcome the opportunity to work with the Committee to amend the bill to address our concerns.

In 1967, RSA 149-E (now RSA 485-A) was enacted to provide authority for regulation of on-site wastewater disposal systems by the Water Supply and Pollution Control Commission (one of DES's predecessor agencies). Rules were then adopted to administer the state's on-site wastewater program. These rules required that both newly created lots and existing lots of record proposed for development address the capacity of the soils to support the total proposed sewage loading from the dwelling without septic system failure. For residential units, sewage loading calculations are based on a standardized amount of sewage generated per bedroom because bedrooms are a reasonable indicator of the regular daily volume of wastewater generated by a dwelling. Septic system failures are a significant concern because they contaminate surface waters and groundwater and cause human health problems from exposure to unsanitary conditions.

RSA 485-A:41, IV, which was added in 1989, states "...the commissioner may grant a waiver of any rule, except that no waivers of rules relating to site loading or setback distances to ground or surface waters shall be allowed for sewage or waste disposal systems on lots in subdivisions created after September 1, 1989." On the basis of this statute, DES may grant waivers of site loading or setback distance requirements for systems constructed earlier than September 1, 1989.

Any system installed between 1967 and 1989 should have an approval from DES that clearly specifies the number of approved bedrooms. Therefore, waivers are generally

not necessary for these systems. For systems installed prior to 1967 on older lots or properties, DES recognizes the difficulty in obtaining accurate documentation of the number of bedrooms that existed at the time that the original septic system was installed. The agency has historically provided waivers or approvals for replacement systems on substandard lots when documentation has been provided with the application that the house had the number of bedrooms that were now sought to be supported by a replacement septic system. This documentation could be by confirmation in town records, a letter from the town on letterhead or a notarized letter from a person, other than the current owner, having personal knowledge that the bedrooms existed in the home prior to 1967. We would be happy to work with the Committee on language to incorporate these or similar criteria into RSA 485-A to more clearly specify when waivers may be granted.

Thank you for this opportunity to comment on this bill. Please feel free to call DES Subsurface Systems Bureau Administrator Robert Tardif at 271-2904, or me at 271-2958, if you have any questions or need additional information.

Very truly yours,

A handwritten signature in black ink that reads "Thomas S. Burack". The signature is written in a cursive style with a large, stylized initial "T".

Thomas S. Burack  
Commissioner

cc: Representative Hunt