



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner



*Celebrating 25 Years of Protecting
New Hampshire's Environment*

April 26, 2012

The Honorable Bob Odell, Chairman
Senate Energy and Natural Resources Committee
Legislative Office Building, Room 102
Concord, New Hampshire 03301

Re: House Bill 1487, AN ACT relative to low carbon fuel standards programs.

Dear Chairman Odell and Members of the Committee:

Thank you for the opportunity to comment on behalf of the Department of Environmental Services (DES) regarding House Bill 1487, which seeks to prohibit the state from participating in any low carbon fuel standard (LCFS). DES opposes this bill because it would weaken New Hampshire's position and influence on regional discussions regarding both the potential design and implementation of an LCFS that may affect the regional fuel supply and, therefore, New Hampshire fuels, regardless of whether our state ultimately decides to participate or not.

DES does not currently have the statutory authority to implement a Low Carbon Fuel Standard (LCFS). Should DES, in the course of discussions and analysis conducted with the other states in the region, determine that such a program were necessary to protect air quality, or otherwise in the best interests of the State, DES would currently have to seek legislative approval to "join, implement, or participate" in such a regional program. Therefore, this legislation is not necessary and does not address or correct an existing problem.

House Bill 1487 would further require DES to inform the other states of the statutory restriction against participating in or implementing a regional standard as we continue to engage in regional discussions on this topic. This requirement would remove any ability of DES to influence any regional standard that may be developed by the other states. The transportation fuel supply is a fungible, regional supply. New Hampshire does not now receive fuel that differs from fuel delivered to our neighboring states, and would not under a regional LCFS regardless of whether the state were part of a regional program or not. Because New Hampshire is a relatively small fuel market within the overall Northeast/mid-Atlantic market, it is in the best interests of New Hampshire motorists and the state to retain the ability to influence the design of a regional program so as to have an opportunity to protect New Hampshire interests.

In September 2011, DES was contacted by Senator Jeb Bradley regarding DES's participation in talks with eleven other northeastern states regarding the potential for a regional Clean Fuels Standard and the ability of DES to implement such a standard. Attached is a copy of the DES letter responding to Senator Bradley's questions. In it we assure Senator Bradley that DES has neither the statutory authority nor the intent to commit the state to any fuel standard without first obtaining additional legislative review and statutory authorization for such an initiative.

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The current regional discussions are preliminary discussions relative to the viability and potential environmental and economic opportunities related to such an initiative. These discussions are pursuant to an MOU among the 11 states signed by Governor Lynch in 2009. Should these regional discussions lead to the development of a regional program, a step that could occur with or without New Hampshire's participation, the department would seek further guidance from the General Court regarding the state's participation in such a program.

Thank you for the opportunity to provide testimony on this bill. Should you have further questions or need additional information, please feel free to contact Michael Fitzgerald, Administrator, Technical Services Bureau (271-6390, michael.fitzgerald@des.nh.gov), or Rebecca Ohler, Transportation and Energy Programs Manager (271-6749, rebecca.ohler@des.nh.gov).

Sincerely,



Thomas S. Burack
Commissioner

attachments

cc: HB 1487 sponsors