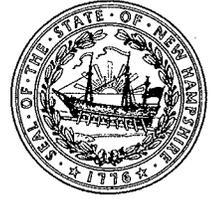




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 30, 2013

The Honorable Russell Prescott, Chairman  
Senate Energy and Natural Resources Committee  
Legislative Office Building, Room 101  
Concord, NH 03301

**Re: HB 46-FN relative to air quality violations**

Dear Chairman Prescott and Members of the Committee:

The Department of Environmental Services (DES) is pleased to offer testimony on SB 46-FN, which would amend RSA 125-C, the *Air Pollution Control Act*, to prohibit outdoor burning by a property owner if the nearest abutting residence is less than 300 feet from the fire and the smoke plume from the fire crosses the property line.

The current regulatory scheme requires residents of the State to obtain a burn permit from the Department of Resources and Economic Development (DRED) or the local fire warden. DRED estimates that there are approximately 80,000-100,000 burn permits issued annually. The permit contains conditions depending upon the size of the fire, the hours of the day when the fire can be kindled, and restrictions on the materials that can be burned consistent with the N.H. Code of Admin. Rules, Env-A 1000, *Open Air Source Pollution*. Specifically, the rules provide that only clean, untreated wood, and brush less than 5 inches in diameter can be burned. DES works with the State forest rangers and local fire wardens in determining the appropriate enforcement response in instances where non-conforming materials are burned. DES responds to approximately 30 complaints of burning non-conforming materials on an annual basis.

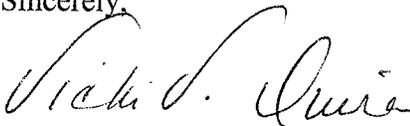
Effective in 2011, DES readopted Env-A 1000. Among other changes and clarifications to the rules that were adopted at that time, the provision that prohibited open burning if it was deemed as causing a nuisance was removed from the rules due to resource constraints at DES. While SB 46 does not prohibit the State forest ranger or local fire warden from issuing a burn permit if the burning will occur less than 300 feet from an abutting residence, it would require DES to respond to citizen's complaints and require that the smoke be abated or that the fire is extinguished, in the instance where the smoke from outdoor fires or burning devices crosses the property line. DES does not currently have the resources to implement this program. Accordingly, DES has prepared a fiscal note on the estimated fiscal impact of this bill.

DES understands that the intent of this bill is to address outdoor wood burning in instances where abutting neighbors may be impacted by the smoke. Wood smoke from burning even clean wood emits particulate matter that can impact public health and the environment.

However, we believe that a more streamlined approach would be to provide the local health officers or the local fire warden and the State forest ranger with the authority to revoke the burn permit in these instances. Consistent with this approach, DES would be happy to work with the sponsors and this Committee to offer an amendment consistent with this approach.

Thank you for the opportunity to provide testimony. Should you have further questions or need additional information, please contact Craig A. Wright, Acting Director, Air Resources Division (271-1088, [craig.wright@des.nh.gov](mailto:craig.wright@des.nh.gov)) or Pamela Monroe, Compliance Bureau Administrator, Air Resources Division (271-0882, [pamela.monroe@des.nh.gov](mailto:pamela.monroe@des.nh.gov)).

Sincerely,



Thomas S. Burack  
Commissioner

Cc: SB 46 Sponsors