



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 19, 2016

The Honorable Robert Haefner, Chair
House Environment and Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

Re: HB 1398, "An Act establishing a commission to study septic sludge spreading"

Dear Chair Haefner and Members of the Committee:

Thank you for the opportunity to comment on HB 1398. This bill would establish a commission to study the land application of wastewater solids. The New Hampshire Department of Environmental Services (NHDES) does not see the need for this legislation and has concerns about potential technical errors and ambiguities in the bill.

NHDES questions the necessity of forming a new study commission to study land application of wastewater residuals (sludge and septage) since such research has been ongoing for decades in academia, as well as at the state and federal levels of government. In fact, the New Hampshire legislature has studied this issue, most recently in 2007 (HB 699, Chapter 253, Laws of 2007). Academic research and government studies have all confirmed that appropriately regulated land application is safe and sustainable. The HB 699 Study Commission concluded:

"Based on all the testimony and data gathered, it is clear that the disposal of sewage, sludge and septage is an important issue in New Hampshire. Current practices are adequate for the protection of human health, safety and the environment, but there is a deficit of septage disposal capacity in the state that does not currently address today's disposal needs. Costs of disposal are significant and are expected to only increase with the rising cost of fuel and energy. Approximately 60% of the residents in New Hampshire are served by private septic systems and as this number increases the septage disposal problem will increase accordingly. Insuring adequate septage disposal capacity for future needs is critical to environmental protection of the state's water resources."

NHDES has promulgated administrative rules regulating sludge and septage management (Env-Wq 800 and Env-Wq 1600, respectively) that it believes are comprehensive and protective of public health. However, both sets of regulations explicitly allow communities to adopt more stringent local ordinances under health and land use statutes to address local concerns. Therefore, NHDES does not support the establishment of a new study commission at this time.

Notwithstanding the fact that these matters have already been studied extensively by the Legislature and other parties, should this committee choose to recommend the formation of a

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new study commission, NHDES would recommend that certain defects identified below be addressed. Specifically, HB 1398, as drafted, contains certain provisions that make the intent of the bill unclear and that would result in a study commission that is uncertain of its charge.

In 1990, through enactment of Laws of 1990, Chapter 252 (HB 1405), the Legislature moved the regulation of sludge and septage (solids or semi-solids resulting from the treatment of water or wastewater) from RSA 149-M, Solid Waste Management to RSA 485-A, Water Pollution and Waste Disposal. HB 1398 proposes to establish a study commission to study wastewater residuals (sludge and septage) within solid waste regulations. NHDES believes the mandate for the study commission would be more appropriately placed in RSA 485-A.

In addition, the terms "sludge" and "septage" are specifically defined in RSA 485-A:2, XI-a. and RSA 485-A:2, IX-a, respectively. However, the term "septic sludge", which is used in HB 1398 (in the title and lines 1, 3, 4 and 5), is not defined in statute. Based upon a combined reading of the common usage of the term "septic" within the wastewater industry (which generally takes the term to mean wastewater which has been depleted of oxygen and nitrate) and the statutory definition of sludge, this bill could be interpreted as charging the proposed commission with studying sludge which has been depleted of oxygen and nitrate. It seems more likely, however, that the sponsors did not intend such a narrow focus.

NHDES believes the above defects have made the intent of this legislation unclear and may result in commission membership not well suited to studying the land application of wastewater residuals. For example, NHDES believes a professional wastewater engineer or certified wastewater treatment plant operator would be a more suitable commission member than "a waste management professional specializing in the operation of solid waste treatment facilities" (see proposed language in HB 1398, RSA 149-M:61, I.(e)). If the sponsors propose to study the land application of sludge and septage, then professionals involved with wastewater and residuals management are more suitable for inclusion on the study commission than solid waste managers.

Thank you again for the opportunity to comment on HB 1398. If you have questions or need additional information, please contact Michael Rainey, Supervisor, Residuals Management Section, at michael.rainey@des.nh.gov, or 271-2818, or Tracy Wood, P.E., Administrator, Wastewater Engineering Bureau, at tracy.wood@des.nh.gov, or 271-2001.

Sincerely,

Thomas S. Burack
Commissioner

cc: Sponsors of HB 1398: Reps. Irwin, Grenier, Bridge