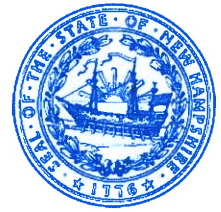




The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 27, 2020

The Honorable Amanda Gourgue
Chair, House Environment & Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

RE: HB 1422-FN, An Act establishing a moratorium on the issuance of permits for new landfills or the expansion of existing landfills for the purpose of studying the creation of municipal waste districts

Dear Chair Gourgue and Members of the Committee:

Thank you for the opportunity to testify on HB 1422. This bill would establish a two-year moratorium on the issuance of permits for new privately-owned landfills or expansion of existing privately-owned landfills in New Hampshire, and would direct the New Hampshire Department of Environmental Services (NHDES) to study the feasibility of creating solid waste management districts throughout the state. For the reasons outlined in this letter, NHDES cannot support this bill.

HB 1422 would prohibit NHDES from issuing permits for the construction, operation, or expansion of any privately-owned and operated landfill in New Hampshire from July 1, 2020 until July 1, 2022. NHDES believes the general intent of this bill is to temporarily cease development of new commercial landfill capacity in New Hampshire by prohibiting the construction of new privately-owned landfills, or expansion of such already-existing landfills. However, as currently written, HB 1422 would inadvertently require existing private landfills within New Hampshire to cease operations, resulting in a sudden and significant loss of the State's disposal capacity.

Because the Department regulates solid waste facilities via a permit system pursuant to RSA 149-M:6, III, all landfills in New Hampshire must frequently apply for permits and permit modifications for various construction and operational activities (it should be noted that modern landfills, by their very nature, are in an almost constant state of construction). NHDES believes this bill would prohibit existing privately-owned landfills in New Hampshire from obtaining approvals for routine construction and operational activities, which would effectively result in the temporary closure of such facilities. There are currently two privately-owned landfills in New Hampshire, which together receive approximately 65% of the in-state solid waste disposed in New Hampshire. If these facilities were forced to cease operations, it would require many New Hampshire municipalities and businesses to seek alternate destinations for disposal of solid waste. NHDES believes this would be very disruptive and could require the majority of New Hampshire's solid waste to be transported to disposal facilities outside of the Northeast, likely resulting in higher transportation and disposal costs.

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NHDES further notes that the bill's generic use of the term "facility" would have unintended consequences. As defined in RSA 149-M:4, "facility" means a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste. As such, the term includes not only landfills, but also transfer stations, recycling facilities, composting facilities, waste-to-energy facilities, incinerators, and other processing and treatment facilities. Although it appears from the bill's title that the moratorium is meant to apply only to landfills, as written, the bill would actually prohibit NHDES from issuing permits to construct, operate, or expand ANY private solid waste management facility during the two-year period.

HB 1422 would also require NHDES to evaluate the feasibility of implementing solid waste management districts throughout New Hampshire and to also identify best practices related to the state's solid waste reduction goals in RSA 149-M:2 and RSA 149-M:3. NHDES has concerns about the resources necessary to conduct such a study. Pursuant to RSA 149-M, NHDES is responsible for solid waste planning in New Hampshire and is required to periodically update the State's Solid Waste Management Plan. However, due in part to resource deficiencies over the last two decades, the Department has been challenged to fulfill this and a number of other duties. This bill would put additional responsibilities on NHDES, which the Department would be unable to absorb with its limited existing resources. As reflected in the fiscal note associated with this bill, NHDES expects it would need to hire additional staff to conduct the study required by this bill, at an estimated annual cost to the General Fund of between \$86,000 and \$99,000, including salary and benefits.

NHDES notes its support for HB 1702, Representative Ebel's bill that is currently being considered in this committee, which would establish a solid waste working group to review a host of important issues surrounding solid waste management in New Hampshire. Formation of solid waste districts and best practices for waste reduction are topics that would appropriately be reviewed by that group, which is envisioned to include a broad variety of stakeholders who would be well positioned to provide the context and expertise to evaluate this important topic.

Thank you again for the opportunity to comment on HB 1422. Should you have questions or need additional information, please feel free to contact either Jaime Colby, Solid Waste Management Bureau Permitting Supervisor (jaime.colby@des.nh.gov, 271-5185) or Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997).

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of HB 1422: Representatives French, Merner, Balch, Eisner, Murphy, W. Thomas, M. Pearson, Craig, Coursin, Josephson