

Senate Energy and Natural Resources Committee

Daley Frenette 271-3042

HB 1547-FN, setting maximum contaminant levels for perfluorochemicals in the soil.

Hearing Date: April 14, 2022

Members of the Committee Present: Senators Avard, Giuda, Watters and Perkins Kwoka

Members of the Committee Absent : Senator Gray

Bill Analysis: This bill requires the commissioner of the department of environmental services to adopt rules relative to perfluorinated chemical remediation in the soil.

This bill clarifies language describing certification requirements for certain hazardous waste generators.

Sponsors:

Rep. Mooney

Rep. Healey

Rep. Rung

Rep. Notter

Who supports the bill: 45 signed in support via the remote sign in. Sign in sheet available upon request.

Who opposes the bill: one opposed

Who is neutral on the bill: No one

Summary of testimony presented:

Rep. Maureen Mooney

- This bill came from a brainstorming meeting of community activists and legislators.
- Merrimack has suffered the worst PFAS pollution in the state's history, caused by a private polluter.
- The pollutants have infiltrated water, air, and soil.
- Part one of the bill allows the Commissioner of DES to initiate rules for soil remediation standards for PFAS chemicals by November 1, 2023. This carefully chosen date is a prime reason for this bill.
- The USGS is performing a study in NH of its soil due by the fall of 2022. That results of that study will be critical to setting soil standards in NH.
- The second part of bill amends the groundwater protection act to add soil to that section. Additionally, it adds that a person liable for such contamination provide safe alternative

water to a well owner. The word “person” includes companies and private or public corporations as well.

- The third part of the bill, which is sections 3-7, clarifies language describing certification requirements for certain hazardous waste generators to avoid confusion and maintain consistency, primarily between state and federal terminology on this point.
- There are no fiscal impacts on state revenues or expenditures. There is a potential decrease in expenditures for local governments.
- This bill has received considerable attention from college students. She read from a particular letter from a student that said the collaboration between the Town of Merrimack’s legislators and the Department of Environmental Services highlights how all parties impacted were considered in the crafting on this bill. It is holistic and evidence-based and it can help those who have been harmed.

Sen. Watters asked if this bill would re-open the settlement.

Rep. Mooney said this bill is not related to that topic.

Rep. Howard Pearl

- Asked the committee to support this bill.

Mike Wimsatt and Wendy Bonner - DES

- They strongly support this bill.
- PFAS is a unique group of contaminants that have had an outsized impact on the drinking water of thousands of NH people over the last eight years. This bill, in addition to directing DES to develop soil standards for the PFAS compounds they currently regulate in groundwater and drinking water, it would direct them and give them the authority to do some rulemaking that would address how they regulate PFAS in overarching statutes. This will allow them to acknowledge the outsized impacts this has had.
- They are working with USGS to study PFAS in soil.
- Section 2 clarifies their authority to establish soil standards to protect human health and drinking water quality.
- Section 3 changes the hazardous waste management statute to align with the nomenclature they use to describe generators of hazardous waste and businesses that produce hazardous waste with the federal terms. It does not change the responsibilities of those generators. This will make hazardous waste rules more user friendly.

Sen. Giuda line 21 first page of bill we strike “small quantity” hazardous waste generators. He asked if that will create a one size fits all that could impact a small quantity person by putting them in a higher level of compliance or remediation.

Mr. Wimsatt said no. It makes no change to the responsibilities or categories. It is just a nomenclature issue.

Sen. Perkins Kwoka asked if part of the intent here is to create certainty and predictability with development and redevelopment for how we would remediate soil affected by PFAS.

Mr. Wimsatt said this clarifies authority. They already possess the authority to set soil standards. PFAS is different because they behave so uniquely, and they are regulated at such low concentrations in drinking water. It means we need more sophisticated approach in developing soil standards. We need to understand the distribution of PFAS in soil across the state. USGS took 100 samples from areas of the state where they don’t expect there is a local source of PFAS contamination to look at global transport with rains. They are also looking at soil types, which might impact if PFAS leaches into the water.

Sen. Perkins Kwoka asked if the remediation standards include sites that have experienced sludge spreading.

Mr. Wimsatt said the USGS work includes that. They are looking biosolid samples for PFAS and how it behaves. They are also looking at a site where biosolids were applied in the past. PFAS is in so many consumer products that if they took a sample from a septic tank they could find PFAS.

Sen. Avar asked for reassurance that this does not have anything to do with Saint Gobain.

Mr. Wimsatt said the bill is not targeted at Saint Gobain. It would apply how they look at PFAS across the state.

Sen. Avar said for years they have putting sludge off the highway next to exit 17 to fertilize the field and it is next to the river where Nashua gets their drinking water.

Mr. Wimsatt said Sen. Avar just drew a conceptual model for how contaminants are spread.

Rep. Rosemarie Rung

- Two important points about this bill are that it. It allows DES to test for all forms of PFAS. With technologies, companies are altering the molecule of PFOA and PFAS in such a way that it becomes a different molecule, which is not subject to regulation. By allowing DES to test for all PFAS, they will be able to stay at the same pace with technology and changes in the industry.
- Secondly, we have never been able to really look at PFAS in soil and help regulate it. Soil is the source for much of the ground water contamination. The best way to control it is to go to the root. If we can reduce that, we reduce the negative impacts. By getting to the source, we can mitigate and prevent further groundwater contamination.

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