



STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION OF FORESTS AND LANDS
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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 for outdoor fires

Dear Chairman Prescott and Members of the Committee:

Thank you for the opportunity to testify 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 Department of Resources and Economic Development is not taking a position on the bill at this time, however, we have several concerns.

The state of New Hampshire requires anyone who wishes to burn clean, ordinary combustibles such as leaves, brush or untreated lumber, or have a camp or cooking fire to have written permission from the landowner *and* a written fire permit except when the ground is covered with snow. Fire Permits are obtained locally through the Forest Fire Warden, Deputy Warden's and Issuing Agents.

The Division of Forests and Lands within DRED is statutorily responsible for the protection of our forests from wildfire; and while it is the responsibility of the Department of Environmental Services to respond to air quality complaints, violations of any air resource regulations are automatically violations of fire permit rules under RES 5601.04. Therefore, in practice, it is often the local Forest Fire Warden and/or district Forest Ranger who is asked to investigate complaints regarding outdoor fires. In 2012 Forest Rangers responded to 898 fire-related calls for service and issued 225 fire-related enforcement actions, mostly permit infractions. The agency estimates that between 80,000 and 100,000 fire permits are issued annually, however, this does not take into account the number of legal fires kindled when there is snow covering the ground and a permit is not necessary, nor does it address seasonal permits or campground permits. The actual number of legal fires kindled each year is most certainly much larger than 100,000. Given Forests and Lands responsibility for enforcing NH's forest fire laws and the agency's practice of assisting DES in the enforcement of air quality laws as they relate to outdoor fires, we are concerned that this bill will be difficult to enforce and does not adequately address issued related to nuisance smoke from outdoor fires.



The department is also concerned about this bill from a recreational perspective. The Division of Parks and Recreation operates 19 State Park campgrounds, with several locations that abut heavily-settled residential areas, such as at Bear Brook State Park in Allenstown, Pawtuckaway in Raymond, White Lake in Tamworth, and Lake Francis in Pittsburg. Campfires are an intrinsic part of the outdoor camping experience, serving as the gathering place for cooking, socializing, and community-building for families, youth groups and scouts.

For the 2012 summer season, the Division earned \$2,382,552 in camping revenue, accounting for a significant portion of the Division's total revenue generation. The Division is deeply concerned that SB 46 would significantly impact the camper experience in our campgrounds; resulting in reduced visitation and reducing a major revenue source for the Division.

DRED understands that the intent of this bill is to address outdoor wood burning in instances where abutting neighbors may be negatively impacted by the smoke. It may be appropriate for a local official such as a health officer to have the authority to enforce rules regarding nuisance smoke, as well as Forest Fire Wardens and Deputies, as was the case prior to 2011. However, it should be noted that the Division of Forests and Lands, and by extension Forest Fire Wardens, authority for enforcing open burning laws comes through our laws regarding protection of forests from wildfires. We have no legal authority regarding open burning when there is snow cover or the burning device is enclosed.

Thank you for the opportunity to provide testimony on this bill. If the sponsors or this committee would like to amend this bill or pursue different legislation regarding nuisance smoke, DRED would be happy to provide assistance.

Sincerely,



Brad W. Simpkins,
Interim Director