

## Heather Goley

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**From:** Howard Pearl  
**Sent:** Wednesday, April 27, 2022 10:23 AM  
**To:** Heather Goley  
**Subject:** Minority report SB367

All set in this version. I made a change from the original.

The minority of the committee felt that while the idea and concept of SB 367 had merit, there were serious concerns and would rather recommend Interim Study, as was yielded from the subcommittee work session by a vote of 4-3. There were many unanswered questions and some major environmental, constituent, and consumer assurance concerns, including around plastic feedstock source safety and traceability. Portions of the amended bill were not vetted by the Department of Environmental Services, and due to the complex nature of the bill itself, perhaps multiple committees needed to review it. The Federal EPA is also still underway in the study and formulation of safety and environmental regulations around several of these “advanced recycling” processes. This bill essentially regulates the re-melting of recovered solid feedstock plastics back into their chemical components to form a “liquid soup” for new plastics to be made from. The bill most certainly needed more work and due diligence to ensure proper safety and traceability in effluent, char, and feedstocks - as well as to address other aspects of the bill more clearly as they were not fully enumerated in order to ensure New Hampshire and its citizens were not placed in a position of having to deal with rejected feedstocks and potentiality, some quantities of rejected materials that have the potential be deemed hazardous waste. There were other environmental and food use related concerns that were not ameliorated. Additionally, there is a solid waste working group actively underway where they are working on the complex nature of waste.

Respectfully Submitted,  
Rep. Megan Murray for the minority

Howard C Pearl

State Representative Merrimack 26

Owner Pearl & Sons Farm LLC

Loudon Town Moderator

Environment & Agriculture Committee Chair

Member NH Solid Waste Working Group

Member NH Weights & Measures Advisory Board

NH Farm Bureau Treasurer

409 Loudon Ridge Rd

Loudon N.H. 03307

603-231-1482 cell

## REGULAR CALENDAR

### Environment and Agriculture

**SB 367**, relative to the regulatory status of advanced recycling and manufacturing facilities.  
**REFER FOR INTERIM STUDY.**

Rep. Megan Murray for the **Minority** of Environment and Agriculture. The minority of the committee felt that while the idea and concept of this bill had merit, there were serious concerns and would rather recommend interim study, as was yielded from the subcommittee work session by a vote of 4-3. There were many unanswered questions and some major environmental, constituent, and consumer assurance concerns, including around plastic feedstock source safety and traceability. Portions of the amended bill were not vetted by the Department of Environmental Services, and due to the complex nature of the bill itself, perhaps multiple committees needed to review it. The Federal EPA is also still underway in the study and formulation of safety and environmental regulations around several of these “advanced recycling” processes. This bill essentially regulates the re-melting of recovered solid feedstock plastics back into their chemical components to form a “liquid soup” for new plastics to be made from. The bill most certainly needed more work and due diligence to ensure proper safety and traceability in effluent, char, and feedstocks - as well as to address other aspects of the bill more clearly as they were not fully enumerated in order to ensure New Hampshire and its citizens were not placed in a position of having to deal with rejected feedstocks and potentiality, some quantities of rejected materials that have the potential be deemed hazardous waste. There were other environmental and food use related concerns that were not ameliorated. Additionally, there is a solid waste working group actively underway where they are working on the complex nature of waste.

Original: House Clerk

Cc: Committee Bill File

**MINORITY  
COMMITTEE REPORT**

<b>Committee:</b>	<b>Environment and Agriculture</b>
<b>Bill Number:</b>	<b>SB 367</b>
<b>Title:</b>	<b>relative to the regulatory status of advanced recycling and manufacturing facilities.</b>
<b>Date:</b>	<b>April 27, 2022</b>
<b>Consent Calendar:</b>	<b>REGULAR</b>
<b>Recommendation:</b>	<b>REFER FOR INTERIM STUDY</b>

**STATEMENT OF INTENT**

The minority of the committee felt that while the idea and concept of this bill had merit, there were serious concerns and would rather recommend interim study, as was yielded from the subcommittee work session by a vote of 4-3. There were many unanswered questions and some major environmental, constituent, and consumer assurance concerns, including around plastic feedstock source safety and traceability. Portions of the amended bill were not vetted by the Department of Environmental Services, and due to the complex nature of the bill itself, perhaps multiple committees needed to review it. The Federal EPA is also still underway in the study and formulation of safety and environmental regulations around several of these "advanced recycling" processes. This bill essentially regulates the re-melting of recovered solid feedstock plastics back into their chemical components to form a "liquid soup" for new plastics to be made from. The bill most certainly needed more work and due diligence to ensure proper safety and traceability in effluent, char, and feedstocks - as well as to address other aspects of the bill more clearly as they were not fully enumerated in order to ensure New Hampshire and its citizens were not placed in a position of having to deal with rejected feedstocks and potentiality, some quantities of rejected materials that have the potential be deemed hazardous waste. There were other environmental and food use related concerns that were not ameliorated. Additionally, there is a solid waste working group actively underway where they are working on the complex nature of waste.

Rep. Megan Murray  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

**REGULAR CALENDAR**

**April 27, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Environment and  
Agriculture to which was referred SB 367,**

**AN ACT relative to the regulatory status of advanced  
recycling and manufacturing facilities. Having  
considered the same, and being unable to agree with  
the Majority, report with the recommendation that the  
bill be REFERRED FOR INTERIM STUDY.**

**Rep. Megan Murray**

**FOR THE MINORITY OF THE COMMITTEE**



**Amendment to SB 367**

**- Page 4 -**

1           I. The department shall regulate advanced recycling facilities as manufacturing facilities.  
2 An advanced recycling facility and the products and by-products of advanced recycling shall be  
3 subject to applicable statutes and departmental rules relative to air, water, waste, and land use.  
4 The department may enter and inspect any advanced recycling facility to determine whether storage  
5 of materials prior to advanced recycling is a nuisance or poses a threat to the environment. The  
6 department may utilize its enforcement authorities under RSA 149-M:15 to require abatement of the  
7 nuisance or threat if found. The department may enter and inspect any advanced recycling facility  
8 to ensure compliance with all applicable statutes and departmental rules relative to air, water,  
9 waste, and land use and take any enforcement actions necessary.

10           II. Products of advanced recycling shall not be considered “waste-derived products” or  
11 “refuse-derived fuel” and shall not be subject to the provisions of this chapter and rules created  
12 under its authority relating to waste-derived products and refuse-derived fuel, including but limited  
13 to the certification provisions of department of environmental services rule Env-Sw 1500.

14           III. Advanced recycling facilities shall give priority to utilizing post-use polymers and  
15 recovered feedstocks generated within the state.

16           IV. Post use polymer used as recovered feedstock shall be received from post-use polymer  
17 aggregator permitted by the department.

18           149-M:63 Reporting for Waste Reduction Goals. For the purpose of reporting recycling rates, all  
19 advanced recycling facilities shall report the mass of post-use polymer processed, the mass of  
20 recycled product, the mass of residual material, and the mass of processed material used for fuel to  
21 the department. Recycled product shall not include any residual material, product used for fuel, or  
22 non-post-use-polymer feedstock converted to product.

23           149-M:64 Reporting of Wastes. The department shall adopt rules pursuant to RSA 541-A for the  
24 reporting of all emissions, hazardous waste, effluent, and solid waste generated by an advanced  
25 recycling facility.

26           11 Effective Date. This act shall take effect 60 days after its passage.

1 XVIII-a. "Pyrolysis" means a manufacturing process through which synthetic and/or  
2 biological polymers are heated in the absence of oxygen, sometimes in the presence of catalysts, until  
3 thermally decomposed and are then cooled and condensed. The resulting chemicals, when separated  
4 from wastes, can provide raw materials for the production of plastics, lubricants, waxes, and other  
5 industrially useful chemicals.

6 XVIII-b. "Recovered feedstock" means one or more of the following materials that has been  
7 processed so it may be used as feedstock in an advanced recycling facility:

8 (a) Post-use polymers.

9 (b) Materials which the United States Environmental Protection agency has determined  
10 are feedstocks for advanced recycling and not solid waste.

11 (c) Recovered feedstock does not include unprocessed solid waste.

12 8 Solid Waste Management; Definitions. Amend RSA 149-M:4, XXII to read as follows:

13 XXII. "Solid waste" means any matter consisting of putrescible material, refuse, residue  
14 from an air pollution control facility, and other discarded or abandoned material. It includes solid,  
15 liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining, and  
16 agricultural operations, and from community activities. For purposes of this chapter, it does not  
17 include hazardous waste as defined in RSA 147-A:2; solid or dissolved materials in irrigation return  
18 flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such  
19 burial locations are not located within 75 feet of any drinking water supply; municipal and industrial  
20 discharges which are point sources subject to permits under section 402 of the federal Water  
21 Pollution Control Act, as amended; source, special nuclear or by-product material as defined by the  
22 Atomic Energy Act of 1954, as amended; [œ] septage or sludge as defined in RSA 485-A:2, IX-a and  
23 *XI-a; or post-use polymers and recovered feedstocks converted at an advanced recycling*  
24 *facility or held at such facility prior to conversion; or post-use polymers produced by a*  
25 *permitted post-use polymer aggregator.*

26 9 New Paragraph; Solid Waste Management; Definition. Amend RSA 149-M:4 by inserting after  
27 paragraph XXII the following new paragraph:

28 XXII-a. "Solvolysis" means a manufacturing process through which post-use polymers are  
29 purified with the aid of solvents, while heated at low temperatures and/or pressurized to make  
30 useful products, allowing additives and contaminants to be removed. The products of solvolysis  
31 include monomers, intermediates, and valuable chemicals and raw materials. The process includes  
32 but is not limited to hydrolysis, amyolysis, ammonolysis, methanolysis, and glycolysis.

33 10 New Subdivision; Solid Waste Management; Regulation of Advanced Recycling. Amend RSA  
34 149-M by inserting after section 61 the following new subdivision:

35 Regulation of Advanced Recycling

36 149-M:62 Regulation of Advanced Recycling.

Amendment to SB 367

- Page 2 -

1 waste management facility, processing/treatment facility, solid waste collection, storage, and  
2 transfer facility, processing facility, treatment facility, or an incinerator.

3 3 Solid Waste Management; Definition of Certified Waste-Derived Product. Amend RSA 149-  
4 M:4, II-a to read as follows:

5 II-a. "Certified waste-derived product" means a constituent of solid waste which is no longer  
6 regulated as a solid waste when certified by the department to be recyclable for its original use or  
7 alternate uses and which poses no greater risk to the environment, public health, and safety than  
8 exists by producing, distributing, using, or disposing comparable products which are not waste-  
9 derived. ***Products derived from advanced recycling shall not be considered waste-derived***  
10 ***products or require certification as waste-derived products.***

11 4 New Paragraph; Solid Waste Management; Definitions. Amend RSA 149-M:4 by inserting  
12 after paragraph V the following new paragraph:

13 V-a. "Depolymerization" means a manufacturing process where post-use polymers are  
14 broken into smaller molecules such as monomers, oligomers, plastic or chemical feedstocks, or other  
15 basic raw materials.

16 5 New Paragraph; Solid Waste Management; Definitions. Amend RSA 149-M:4 by inserting  
17 after paragraph IX-a the following new paragraph:

18 IX-b. "Gasification" means a manufacturing process through which recovered feedstocks are  
19 heated and converted into synthesis gas in an oxygen-deficient atmosphere and the mixture is  
20 converted into valuable raw materials.

21 6 New Paragraphs; Solid Waste Management; Definitions. Amend RSA 149-M:4 by inserting  
22 after paragraph XV the following new paragraphs:

23 XV-a. "Post-use polymer" means a plastic to which all of the following apply:

24 (a) The plastic is derived from industrial, commercial, agricultural, or domestic  
25 activities.

26 (b) The plastic is not mixed with solid waste or hazardous waste.

27 (c) The plastic's use or intended use is as a feedstock for mechanical or chemical  
28 recycling.

29 (d) The plastic has been sorted from solid waste and other regulated waste but may  
30 contain residual amounts of solid waste such as organic material and incidental contaminants or  
31 impurities such as paper labels and metal rings.

32 XV-b. "Post-use polymer aggregator" means a facility which collects, sorts, and cleans plastic  
33 waste suitable for advance recycling and provides the feedstock to mechanical or advanced recycling  
34 facilities. The feedstock shall meet the definition of post-use polymer. Recovered feedstock  
35 aggregators shall be permitted under rules adopted by the department.

36 7 New Paragraphs; Solid Waste Management; Definitions. Amend RSA 149-M:4 by inserting  
37 after paragraph XVIII the following new paragraphs:

Amendment to SB 367

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Legislative Findings and Purpose. The general court finds that:

4 I. New Hampshire is committed to a clean environment and protection of its natural  
5 resources. The United States Environmental Protection Agency has recognized that reusing and  
6 recycling post-use materials conserves natural resources, reduces waste, prevents pollution, reduces  
7 greenhouse gasses contributing to climate change and serves as an important economic driver,  
8 helping to create jobs and tax revenue.

9 II. The purpose of this act is to facilitate recycling of greater amounts and more types of  
10 plastics by ensuring that advanced plastic recycling technologies in New Hampshire protect the  
11 public health and safety by being appropriately regulated as manufacturers under New Hampshire's  
12 applicable statutes and departmental rules relative to air, water, waste, and land use. Furthermore,  
13 such facilities will comply with all applicable federal statutes, including but not limited to the Clean  
14 Air Act, the Clean Water Act, and Environmental Protection Agency rules governing hazardous  
15 waste.

16 2 New Paragraphs; Solid Waste Management; Definitions. Amend RSA 149-M:4 by inserting  
17 after paragraph I the following new paragraphs:

18 I-a. "Advanced recycling" means a manufacturing process for the conversion of post-use  
19 polymers and recovered feedstocks into basic raw materials, feedstock chemicals, and other products  
20 like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization,  
21 catalytic cracking, reforming, hydrogenation, solvolysis, and other similar technologies. The recycled  
22 products produced at advanced recycling facilities include monomers, oligomers, plastics, plastics  
23 and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, and coatings. For the  
24 purposes of this chapter, the products of advanced recycling shall not include hydrocarbons which  
25 are marketed, sold, or used as fuel for energy. For the purposes of this chapter, "advanced recycling"  
26 shall not be considered solid waste management, solid waste processing, waste processing,  
27 treatment, incineration, or combustion.

28 I-b. "Advanced recycling facility" means a facility that receives, stores, and converts post-use  
29 polymers and recovered feedstock it receives using advanced recycling. An advanced recycling  
30 facility shall be considered a manufacturing facility. For the purpose of this chapter, "advanced  
31 recycling facility" shall not include a facility, solid waste facility, solid waste management facility,

## Heather Goley

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**From:** Howard Pearl  
**Sent:** Wednesday, April 27, 2022 10:12 AM  
**To:** Heather Goley  
**Subject:** SB367 committee report

Rep Howard Pearl for the majority of the committee. This bill as amended encourages advanced recycling of plastics by creating a clear regulatory structure for the emerging industry. SB 367 appropriately regulates advanced recycling as manufacturing and codifies that all required state and federal laws to protect air, water, waste and land use be applied. NH Department of Environmental Services supports this bill and testified it gives them the needed authority to regulate, inspect and issue the required permits. Plastics are a versatile material that are used in many different applications by New Hampshire businesses and citizens. The US Environmental Protection Agency has recognized that reusing and recycling post-use materials conserves natural resources, reduces waste, prevents pollution, and serves as an economic driver in advancing new technologies that create jobs and new businesses. As we try to divert more plastics from landfills and incinerators, advanced recycling can help in reaching our established goals in NH.

Committee recommendation: OTP/A 9-7

Regular calendar

Howard C Pearl

State Representative Merrimack 26

Owner Pearl & Sons Farm LLC

Loudon Town Moderator

Environment & Agriculture Committee Chair

Member NH Solid Waste Working Group

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NH Farm Bureau Treasurer

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## REGULAR CALENDAR

Environment and Agriculture

**SB 367**, relative to the regulatory status of advanced recycling and manufacturing facilities. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Howard Pearl for the **Majority** of Environment and Agriculture. This bill as amended encourages advanced recycling of plastics by creating a clear regulatory structure for the emerging industry. This bill appropriately regulates advanced recycling as manufacturing and codifies that all required state and federal laws to protect air, water, waste and land use be applied. NH Department of Environmental Services supports this bill and testified it gives them the needed authority to regulate, inspect and issue the required permits. Plastics are a versatile material that are used in many different applications by New Hampshire businesses and citizens. The US Environmental Protection Agency has recognized that reusing and recycling post-use materials conserves natural resources, reduces waste, prevents pollution, and serves as an economic driver in advancing new technologies that create jobs and new businesses. As we try to divert more plastics from landfills and incinerators, advanced recycling can help in reaching our established goals in NH. **Vote 9-7.**

Original: House Clerk

Cc: Committee Bill File

**MAJORITY  
COMMITTEE REPORT**

Committee:	<b>Environment and Agriculture</b>
Bill Number:	<b>SB 367</b>
Title:	<b>relative to the regulatory status of advanced recycling and manufacturing facilities.</b>
Date:	<b>April 27, 2022</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT 2022-1764h</b>

**STATEMENT OF INTENT**

This bill as amended encourages advanced recycling of plastics by creating a clear regulatory structure for the emerging industry. This bill appropriately regulates advanced recycling as manufacturing and codifies that all required state and federal laws to protect air, water, waste and land use be applied. NH Department of Environmental Services supports this bill and testified it gives them the needed authority to regulate, inspect and issue the required permits. Plastics are a versatile material that are used in many different applications by New Hampshire businesses and citizens. The US Environmental Protection Agency has recognized that reusing and recycling post-use materials conserves natural resources, reduces waste, prevents pollution, and serves as an economic driver in advancing new technologies that create jobs and new businesses. As we try to divert more plastics from landfills and incinerators, advanced recycling can help in reaching our established goals in NH.

Vote 9-7.

Rep. Howard Pearl  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

**REGULAR CALENDAR**

**April 27, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Majority of the Committee on Environment and  
Agriculture to which was referred SB 367,**

**AN ACT relative to the regulatory status of advanced  
recycling and manufacturing facilities. Having  
considered the same, report the same with the following  
amendment, and the recommendation that the bill  
OUGHT TO PASS WITH AMENDMENT.**

**Rep. Howard Pearl**

**FOR THE MAJORITY OF THE COMMITTEE**



**Amendment to SB 367**

**- Page 4 -**

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19 burial locations are not located within 75 feet of any drinking water supply; municipal and industrial  
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Amendment to SB 367

- Page 2 -

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28 recycling.

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31 impurities such as paper labels and metal rings.

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Amendment to SB 367

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3 1 Legislative Findings and Purpose. The general court finds that:

4 I. New Hampshire is committed to a clean environment and protection of its natural  
5 resources. The United States Environmental Protection Agency has recognized that reusing and  
6 recycling post-use materials conserves natural resources, reduces waste, prevents pollution, reduces  
7 greenhouse gasses contributing to climate change and serves as an important economic driver,  
8 helping to create jobs and tax revenue.

9 II. The purpose of this act is to facilitate recycling of greater amounts and more types of  
10 plastics by ensuring that advanced plastic recycling technologies in New Hampshire protect the  
11 public health and safety by being appropriately regulated as manufacturers under New Hampshire's  
12 applicable statutes and departmental rules relative to air, water, waste, and land use. Furthermore,  
13 such facilities will comply with all applicable federal statutes, including but not limited to the Clean  
14 Air Act, the Clean Water Act, and Environmental Protection Agency rules governing hazardous  
15 waste.

16 2 New Paragraphs; Solid Waste Management; Definitions. Amend RSA 149-M:4 by inserting  
17 after paragraph I the following new paragraphs:

18 I-a. "Advanced recycling" means a manufacturing process for the conversion of post-use  
19 polymers and recovered feedstocks into basic raw materials, feedstock chemicals, and other products  
20 like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization,  
21 catalytic cracking, reforming, hydrogenation, solvolysis, and other similar technologies. The recycled  
22 products produced at advanced recycling facilities include monomers, oligomers, plastics, plastics  
23 and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, and coatings. For the  
24 purposes of this chapter, the products of advanced recycling shall not include hydrocarbons which  
25 are marketed, sold, or used as fuel for energy. For the purposes of this chapter, "advanced recycling"  
26 shall not be considered solid waste management, solid waste processing, waste processing,  
27 treatment, incineration, or combustion.

28 I-b. "Advanced recycling facility" means a facility that receives, stores, and converts post-use  
29 polymers and recovered feedstock it receives using advanced recycling. An advanced recycling  
30 facility shall be considered a manufacturing facility. For the purpose of this chapter, "advanced  
31 recycling facility" shall not include a facility, solid waste facility, solid waste management facility,

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on SB 367

BILL TITLE: relative to the regulatory status of advanced recycling and manufacturing facilities.

DATE:

LOB ROOM: 301 - 303

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1<sup>st</sup> year)
- Interim Study (2nd year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)

Moved by Rep. Murray Seconded by Rep. Outry Vote: 7-9

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1<sup>st</sup> year)
- Adoption of Amendment # 2022-1764H (if offered)
- Interim Study (2nd year)

Moved by Rep. Pearl Seconded by Rep. Burby Vote: 16-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1<sup>st</sup> year)
- Adoption of Amendment # 2022-1764H (if offered)
- Interim Study (2nd year)

Moved by Rep. Pearl Seconded by Rep. Burby Vote: 9-7

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1<sup>st</sup> year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

CONSENT CALENDAR: \_\_\_\_\_ YES  NO

Minority Report?  Yes \_\_\_\_\_ No If yes, author, Rep: Murray Motion 9-7

Respectfully submitted: [Signature]  
Rep Barbara Comtois, Clerk

**HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE**

**EXECUTIVE SESSION on SB 367**

**BILL TITLE:** relative to the regulatory status of advanced recycling and manufacturing facilities.

**DATE:** April 26, 2022

**LOB ROOM:** 301 - 303

**MOTIONS: REFER FOR INTERIM STUDY**

Moved by Rep. M. Murray

Seconded by Rep. Dutzy

Vote: 7-9

**MOTIONS: OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Pearl

Seconded by Rep. Bixby

AM Vote: 16-0

Amendment # 2022-1764h

Moved by Rep. Pearl

Seconded by Rep. Bixby

Vote: 9-7

**CONSENT CALENDAR: NO**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Barbara Comtois, Clerk





2022 SESSION

Environment and Agriculture

Bill #: SB3167 Motion: OTP/A AM #: 20221764# Exec Session Date: 4-26-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearl, Howard C. Chairman	✓		
<del>Aron, Judy F. Vice Chairman</del> Lascelles, Rich	✓		
Comtois, Barbara Clerk	✓		
<del>Verville, Kevin G.</del> Khan, Akul	✓		
<del>Davis, Arnold G.</del>			
Stapleton, Walter A.	✓		
<del>Homola, Susan</del> Johnson, Dawn	✓		
<del>Kennedy, Margaret Anne</del>			
<del>Mason, James L.</del> Spillane, Jim	✓		
Sanborn, Gail E.	✓		
Bixby, Peter W.	✓		
Sofikitis, Catherine M.		✓	
Bouldin, Andrew J.		✓	
Dutzy, Sherry		✓	
Murray, Megan A.		✓	
Von Plinsky, Sparky		✓	
Caplan, Tony		✓	
<del>Perez, Maria</del> Woods, Gary		✓	
<b>TOTAL VOTE:</b>	<b>9</b>	<b>7</b>	



## 2022 SESSION

## Environment and Agriculture

Bill #: SB3167 Motion: Adopt AM #: 2022-1764H Exec Session Date: 4-26-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
1 Pearl, Howard C. Chairman	✓		
2 <u>Aron, Judy F. Vice Chairman</u> <u>Lascelles, Rich</u>	✓		
3 Comtois, Barbara Clerk	✓		
4 <u>Verville, Kevin G.</u> <u>Khan, Aboul</u>	✓		
<u>Davis, Arnold G.</u>			
5 Stapleton, Walter A.	✓		
6 <u>Homola, Susan</u> <u>Jokson, Drew</u>	✓		
<u>Kennedy, Margaret Anne</u>			
7 <u>Mason, James L.</u> <u>Spillane, Jim</u>	✓		
8 Sanborn, Gail E.	✓		
9 Bixby, Peter W.	✓		
10 Sofikitis, Catherine M.	✓		
11 Bouldin, Andrew J.	✓		
12 Dutzy, Sherry	✓		
13 Murray, Megan A.	✓		
14 Von Plinsky, Sparky	✓		
15 Caplan, Tony	✓		
16 <u>Perez, Maria</u> <u>Woods, Gary</u>	✓		
<b>TOTAL VOTE:</b>	<b>16</b>	<b>0</b>	





2022 SESSION

Environment and Agriculture

Bill #: SB361 Motion: IS AM #: ~~2022-1764H~~ Exec Session Date: 4-26-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
1 Pearl, Howard C. Chairman		✓	
2 <del>Aron, Judy F. Vice Chairman</del> <i>Lascelles, Rich</i>		✓	
3 Comtois, Barbara Clerk		✓	
4 <del>Verville, Kevin G.</del> <i>Rhan, Akou L</i>		✓	
<del>Davis, Arnold G.</del>			
5 Stapleton, Walter A.		✓	
6 <del>Homola, Susan</del> <i>Johnson, Dawn</i>		✓	
<del>Kennedy, Margaret Anne</del>			
7 <del>Mason, James L.</del> <i>Spillane, James</i>		✓	
8 Sanborn, Gail E.		✓	
9 Bixby, Peter W.		✓	
2 Sofikitis, Catherine M.	✓		
3 Bouldin, Andrew J.	✓		
4 Dutzy, Sherry	✓		
5 Murray, Megan A.	✓		
6 Von Plinsky, Sparky	✓		
7 Caplan, Tony	✓		
8 <del>Perez, Maria</del> <i>Woods, Gary</i>	✓		
<b>TOTAL VOTE:</b>	<b>7</b>	<b>9</b>	





Rep Bixby – Q. extended producer responsibility, what do the producers take back their single use plastics, they will need some mechanization to repurpose, if pyrolysis is taken off the table how will they turn them into something useful A. the working group on solid waste should look at this Q. would it make more sense to regulate as manufacturing A. hesitant to say as the bill is unclear Q. what sorts of regulations do not yet exist for the manufacturing process in pyrolysis that should be put into place to make it safe A. I will get this information for you

Rep Kennedy Q. If DES is comfortable with this, why are you opposing that A. I cannot answer why DES is okay with the language

Rep Pearl – Q. Director Wimsatt, said that they were comfortable with the fact that they could go into the facility to manage any issues A. I think DES needs to do the planning first before we start de-regulating

Nancy Morrison, Mount Vernon, opposes – NH and the world needs less plastic and not produce more – industry is fairly new – google report Reuters in Nov 2021 regarding this issue – feel we would be swapping Air pollution for ground pollution

Kirsten Koch – BIA – supports – written testimony –

Rep Dutzy – Q. what professionals does the BIA have on it staff to understand this bill A. we look to our membership

Fred Anderson, Whitefield – married to a woman who is a plastic Nazi, but when I hear this great plan, the devil is in the details, improve it, don't make a mistake and put more stuff into the air.

John Swan – Dalton, NH – Save Forest Lake – opposes - concerned about bill because we do not know anything about it. It looks to be deregulation of solid waste. Why does the ACC want to change the language on the books and a change to solid-waste regulation? PFAS is a real problem in NH.

Margaret Gorman – ACC (American Chemistry Council) – supports - written testimony – National Trade Association, works in Northeast Regional Office – Albany, NY - this is a game changer – 90% of plastics are not being recycled – Plastic Energy from Europe – new projects in several areas, Wendy's are now making their cups from recycled plastics – 18 states currently have these facilities – states who have banned plastic and are endorsing these facilities – There are no facilities in the northeast, reclassify them as manufacturing facilities is proper as they are making new products – This is not incineration – emission rate is lower than a college campus and hospitals –

Rep Bixby – Q. there are various new products are being made, is this all happening in the same facility A. it can be both Q. fuel, one of the uses that pyrolysis is used for, would this be the type of product this would be producing A. yes, it could be, but it is trending to newer products Q. business model question, would directing this to new products, does that improve the balance sheet of these products A. yes, it would improve the balance sheet of NH

Rep Murray – Q. plastics that are multi-layered that may get converted into new product, are those coatings getting transferred and is the public being made aware A. other chemistries of concern would not be going into the emission

Rep Caplan Q. the emissions and byproducts would they contain toxic substances A. I will need to have my technical counterpart answer in a work session Q. Are you familiar with St. Gobain A. yes, these facilities have been in existence for 10 years?

Rep Pearl – Q. are there any of these facilities going into the existing states A. No, the closest is Ohio

Rep Dutzy Q. can any type of plastic go into this process? A. the facilities are taking the harder to recycle plastics, we are seeing shampoo bottles, detergent bottle, etc.

Rep Kennedy – Q. Revenue, is there a pathway to tax relief A. these are private facilities, and they are not looking for tax breaks from the State

Rep Stapleton – Q. in the metals process there is often slag and dross, is there not much of that sort of thing in plastics A. at least 80% of the plastic is reused

Rep Bixby – Q. at what point does the classification change from waste to feedstock? A. will need to defer to my technical counterpart Q. what is it about being regulated as solid waste the problem A. they are not solid-waste facilities, and they want to be classified correctly as a manufacturer

Rep Dutzy – Q. in 2018 we recycled 3 million tons vs 35 million ton put into landfills, what would that be the throughput A. In NY was 800,000 tons repurposed Q. Corporate sustainability goals will pay more for recycled resins vs virgin resins A. it would be taking virgin resins

Rep Caplan – Q. how many higher-level jobs are created A. do not have specifics

John Tuthill – Acworth, NH – opposes – former member of E & A Committee – Sullivan committee has already been through this – when dealing with waste, it is always looking for the cheapest way to go – strongly urge you to take the time to study this, DES has adopted rules for feedstock and Pyrolysis – Please look at Senate hearing –

Heidi Trimarco – CLF (Conservation Law Foundation) – written testimony – opposes

Rep. Dutzy – Q. who asked you to bring the bill forward A. Jody Grimblis from the American Chemistry Council

Rep Caplan – Q. how many plants are in existence A. 6 or 9 Q. are you concerned about the downsides of the manufacturing process A. there is always downside – all we are doing is allowing the conversation to go forward

Rep Bixby – Q. why is it an impediment to change the definition of plastic feedstock A. it is already going into the landfills and there is no plan

Mark Sanborn – Asst. Commissioner NHDES – I cannot answer some of the more technical questions – Commissioner Wimsatt did assist with the draft of the bill, there was a concern about our ability to address concerns of safety, health, and access to facilities. We are comfortable with the language as amended

Rep Caplan – Q. the language in the original bill seemed to be a lot stronger in the original bill and with the amendment seems to water it down, why have we walked back the enforcement ability. A. the new language gives us the ability to address concerns and still have our authority and have not walked away from any of our authority with the new language

Rep Bixby – Q. It sounds like Rep Caplan read from the original bill, is there something in here to protect air and water quality A. yes, they are already in state statute, we do not have to reiterate our authority that is already in statute Q. by changing the definition to manufacturing instead of solid waste, it would fall under the air and water quality A. yes. Q. If we define these feedstock plastics as solid waste, how do they get counted in our solid waste reduction plan A. someone else from DES would be better able to answer that question

Rep Murray. Page 2 Line 5- is there a contaminate percentage A. great question for me to get back to you on

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Rep Stapleton – Q. noticed the process described in bill is deprivation of oxygen and that the released atmosphere is minimal A. Yes Q. page 2 XVII-b – A. DES was comfortable with the way it was spelled out

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HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 367

**BILL TITLE:** An act relative to the regulatory status of advanced recycling and manufacturing facilities.

**DATE:** April 5, 2022

**ROOM:** 301

**Time Public Hearing Called to Order:** \_11:20 a.m.

**Time Adjourned:** \_\_\_\_:00 a.m.

(Please circle if present)

**Committee Members:** Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Horrigan, Schultz, Dutzy, M. Murray, Caplan Von Plinsky, and Perez

**SPONSORS:** Sen. Avard, Dist 12; Sen. Watters, Dist 4; Sen. Hennessey, Dist 1; Sen. Bradley, Dist 3; Sen. Soucy, Dist 18; Sen. French, Dist 7; Sen. Cavanaugh, Dist 16; Rep. Pearl, Merr. 26; Rep. Potucek, Rock. 6

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

---

Senator Avard – introducing bill – written testimony – incentivizing private business to keep plastic out of landfills – to establish a clear regulatory facility and not a solid waste facility – original bill was amended to address concerns from DES – this is an idea – thinking outside the box is what got me really excited about this bill

Rep Pearl – did you work with DES on the language changes – A. Yes

Rep Caplan – A. are you familiar with the reduced recycle paradigm, and how does this fit in Q. there are plastics that cannot be recyclable at this time

Rep Bixby – Q. at the outset I like the concept, but have questions about the language P.1 Line 15, why not just facility would not be there A. don't know Q. line 23 why is that line there? A. this is a manufacturing bill, it's not refuse, it's a raw material Q. Waste management pyramid, somewhere in the middle is recycling, current waste management plan has a plan and wondering if this material would be part of the reduction where this line specifically states that it is not waste. A. experts will be able to answer this question in more detail.

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HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

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**DATE:**

**ROOM:** 301 - 303

**Time Public Hearing Called to Order:** 11:20 AM

**Time Adjourned:** 1:01 pm

(please circle if present)

**Committee Members:** Reps. Pearl, Aron, Comtois, Verville, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Sofikitis, Andrew Bouldin, Dutzy, M. Murray, Von Plinsky, Caplan and Perez

**Bill Sponsors:**

Sen. Avard  
Sen. Bradley  
Sen. Cavanaugh

Sen. Watters  
Sen. Soucy  
Rep. Pearl

Sen. Hennessey  
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Blue  
10 oppose

Orlean  
11 support  
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<b><u>Name</u></b>	<b><u>Town</u></b>	<b><u>State</u></b>	<b><u>Position</u></b>	<b><u>Attachment</u></b>	<b><u>Typed</u></b>
Jeanne Torpey	Concord	NH	Oppose		
Job Bradley	SD3	NH	Support		
Jill Weber	Mont Vernon	NH	Oppose		
Joanne blaney	bethlehem	NH	Oppose		
Johann Griffin	Lancaster	NH	Oppose		
John Lajole	Charlestown	NH	Oppose		
Joseph kwasnik	concord	NH	Oppose		
Joyce Menard	TWIN MOUNTAIN	NH	Oppose		
Joyce Weston	Plymouth	NH	Oppose		
JUDITH LINDSEY	Candia	NH	Oppose		
Judith Saum	Rumney	NH	Oppose		
Kate Messner	Hudson	NH	Oppose		
Ken Wells	Andover	NH	Oppose		
Kent Hackmann	Andover	NH	Oppose		
Kris Pastoriza	Easton	NH	Oppose		
Kristina Snyder	Chester	NH	Oppose		
Kristine Baber	Dover	NH	Oppose		

<b>Name</b>	<b>Town</b>	<b>State</b>	<b>Position</b>	<b>Attachment</b>	<b>Typed</b>
<b>Catherine Bushueff</b>	Sunapee	NH	Oppose		
<b>Catherine Corkery</b>	Concord	NH	Oppose		
<b>Cheryl Jensen</b>	Bethlehem	NH	Oppose		
<b>Chrisinda Lynch</b>	Concord	NH	Oppose		
<b>Claudia Damon</b>	Concord	NH	Oppose		
<b>Dana Nute</b>	Sanbornton	NH	Oppose		
<b>Danuta Brooks</b>	BETHLEHEM	NH	Oppose		
<b>Deborah Jakubowski</b>	Loudon	NH	Oppose		
<b>Denise M Clark</b>	Milford	NH	Oppose		
<b>Donna Reardon</b>	Concord	NH	Oppose		
<b>Donna Soucy</b>	Manchester	NH	Support		
<b>Doris Hampton</b>	Canterbury	NH	Oppose		
<b>ED FRIEDRICH</b>	Loudon	NH	Oppose		
<b>Edward Craxton</b>	Hanover	NH	Oppose		
<b>Elizabeth Corell</b>	Concord	NH	Support		
<b>Elizabeth Nelson</b>	Derry	NH	Oppose		
<b>Elizabeth Stevens</b>	New London	NH	Oppose		
<b>Eric Zaenglein</b>	Amherst	NH	Oppose		
<b>Erin Hennessey</b>	Senate District 1	NH	Support		
<b>Gary Devore</b>	Pembroke	NH	Oppose		
<b>Gregory Davis</b>	Salem	NH	Oppose		
<b>Helmut Koch</b>	Concord	NH	Oppose		
<b>irene mosedale</b>	Franconia	NH	Oppose		
<b>irit levy</b>	Waterville Valley	NH	Oppose		
<b>Jack Hurley</b>	Claremont	NH	Oppose		
<b>Jack Sinibaldi</b>	Whitefield	NH	Support		
<b>JAN HOSTAGE</b>	New London	NH	Oppose		
<b>Jana Sellarole</b>	Walpole	NH	Oppose		
<b>Jane Hershey</b>	Rindge	NH	Oppose		
<b>Janet Lucas</b>	Campton	NH	Support		
<b>Jason Osborne</b>	Auburn	NH	Support		

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<b>Joseph Orzech</b>	Dalton	NH	Oppose		<a href="#">View Text</a>
<b>Judith Pettingell</b>	Hanover	NH	Oppose		<a href="#">View Text</a>
<b>Judith Reed</b>	Keene	NH	Oppose		<a href="#">View Text</a>
<b>Larissa Fuqua</b>	Amherst	NH	Oppose		<a href="#">View Text</a>
<b>Martha Lyman</b>	Manchester	NH	Oppose		<a href="#">View Text</a>
<b>Michael Wright</b>	Littleton	NH	Oppose		<a href="#">View Text</a>
<b>Nancy WALSH-ROBART</b>	Andover	NH	Oppose		<a href="#">View Text</a>
<b>Paul Damiano</b>	Dalton	NH	Oppose		<a href="#">View Text</a>
<b>Rebecca MacKenzie</b>	Claremont	NH	Oppose		<a href="#">View Text</a>
<b>Sarah Thorne</b>	Gilmanton	NH	Oppose		<a href="#">View Text</a>
<b>Susan Richman</b>	Durham	NH	Oppose		<a href="#">View Text</a>
<b>abby evankow</b>	gorham	NH	Oppose		
<b>Andrew Jones</b>	Pembroke	NH	Oppose		
<b>Ann Craxton</b>	Hanover	NH	Oppose		
<b>Ann Griffin</b>	Lancaster	NH	Oppose		
<b>Anne Grossi</b>	Bedford	NH	Oppose		
<b>Anne Huberman</b>	Peterborough	NH	Oppose		
<b>Anne Thomas</b>	Rindge	NH	Oppose		
<b>Annie Rettew</b>	Concord	NH	Oppose		
<b>Anthony and Kimberly Correia</b>	Dalton	NH	Oppose		
<b>Arlene Laramie</b>	Whitefield	NH	Oppose		
<b>Ashley Garrison</b>	Franconia	NH	Oppose		
<b>Barbara Reed</b>	North Swanzey	NH	Oppose		
<b>Barbara Sinclair-pappas</b>	Chichester	NH	Oppose		
<b>Barbara Zaenglein</b>	Amherst	NH	Oppose		
<b>Benjamin Stinson</b>	Concord	NH	Oppose		
<b>Bob Switzer</b>	Sullivan	NH	Oppose		
<b>Bonnie Christie</b>	HOPKINTON	NH	Oppose		
<b>Brian Cook</b>	Bethlehem	NH	Oppose		
<b>Bridget Mooney</b>	Wilton	NH	Oppose		
<b>bruce blaney</b>	bethlehem	NH	Oppose		

The New Hampshire  
**House of Representatives**

## HOUSE OF REPRESENTATIVES - ONLINE TESTIMONY SUBMISSIONS

House Environment and Agriculture 

SB367 

**Support: 11 | Oppose: 148 | Neutral: 0**

<b>Name</b>	<b>Town</b>	<b>State</b>	<b>Position</b>	<b>Attachment</b>	<b>Typed</b>
Bruce Berk	Pittsfield	NH	Oppose	<a href="#">View PDF</a>	
Cynthia Walter	Dover	NH	Oppose	<a href="#">View PDF</a>	
Darla Bruno	Lebanon	NH	Oppose	<a href="#">View PDF</a>	
Katie Lajoie	Charlestown	NH	Oppose	<a href="#">View PDF</a>	
Lorna Carlisle	Salisbury	NH	Oppose	<a href="#">View PDF</a>	
Cindy Heath	Cornish	NH	Oppose		<a href="#">View Text</a>
clark corson	Penacook	NH	Oppose		<a href="#">View Text</a>
David Holt	Somersworth	NH	Support		<a href="#">View Text</a>
Deborah Beaton	Lancaster	NH	Oppose		<a href="#">View Text</a>
Gabriella Horvath	Bethlehem	NH	Oppose		<a href="#">View Text</a>
Gerald Beck	Holderness	NH	Oppose		<a href="#">View Text</a>
Jacquelyn Elliott	Waterboro	ME	Oppose		<a href="#">View Text</a>
Jane and Peter Cooke	Hooksett	NH	Oppose		<a href="#">View Text</a>
Janet Damiano	Dalton	NH	Oppose		<a href="#">View Text</a>
Janet Marshall	Lisbon	NH	Oppose		<a href="#">View Text</a>
Jennifer Lucas	Waterville Valley	NH	Oppose		<a href="#">View Text</a>
Jo Beth Dudley	Dalton	NH	Oppose		<a href="#">View Text</a>
Joanna Sharf	Cornish	NH	Oppose		<a href="#">View Text</a>
John Atherton	Dover	NH	Oppose		<a href="#">View Text</a>
John Gage	Windham	NH	Oppose		<a href="#">View Text</a>
Jon Swan	Dalton	NH	Oppose		<a href="#">View Text</a>

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

SUBCOMMITTEE WORK SESSION on SB 367

BILL TITLE: relative to the regulatory status of advanced recycling and manufacturing facilities.

DATE: April 19, 2022

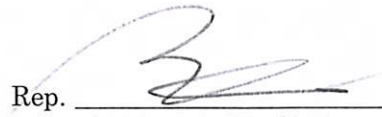
Subcommittee Members: Reps. M. Murray, Comtois, ~~Verville~~, Stapleton, Homola, Andrew ~~Bouldin~~ and Caplan  
Galloper

Comments and Recommendations:  
Continued to 4/24/22

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)  
Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ AM Vote: \_\_\_\_\_  
Adoption of Amendment # \_\_\_\_\_  
Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_  
\_\_\_\_\_ Amendment Adopted \_\_\_\_\_ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)  
Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ AM Vote: \_\_\_\_\_  
Adoption of Amendment # \_\_\_\_\_  
Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_  
\_\_\_\_\_ Amendment Adopted \_\_\_\_\_ Amendment Failed

Respectfully submitted,

Rep.   
Subcommittee Chairman/Clerk



HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

**SUBCOMMITTEE WORK SESSION** on SB 367

**BILL TITLE:** relative to the regulatory status of advanced recycling and manufacturing facilities.

**DATE:** April 19, 2022

**Subcommittee Members:** Reps. M. Murray, Comtois, Stapleton, Homola and Caplan

**Comments and Recommendations:** Meeting continued to April 26, 2022.

Respectfully submitted,

Rep. Barbara Comtois  
Subcommittee Clerk

2022-1674h

AMENDED ANALYSIS

This bill establishes the revolving fund for agricultural hearing officers.

This bill also requires a dog, cat, or ferret to be transferred with a health certificate.

UNAPPROVED

**Amendment to SB 368-FN**

**- Page 2 -**

1           4 New Paragraph; Health Certificates for Cats and Dogs. Amend RSA 437:8 by inserting after  
2 paragraph III the following new paragraph:

3           III-a. No person, firm, corporation, or other entity shall transfer ownership of a dog, cat, or  
4 ferret without an official health certificate.

5           5 New Paragraph; Health Certificates for Cats and Dogs; Database Version. Amend 2021,  
6 91:303 by inserting after paragraph III the following new paragraph:

7           III-a. No person, firm, corporation, or other entity shall transfer ownership of a dog, cat, or  
8 ferret without an official health certificate.

9           6 Effective Date. This act shall take effect January 1, 2023.

ONLY APPROVED

Amendment to SB 368-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing the agricultural hearings officer revolving fund and relative to penalties  
4 for unlawfully transferring dogs, cats, and ferrets.  
5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Section; Revolving Fund for Agricultural Hearings Officers. Amend RSA 425 by inserting  
9 after section 11 the following new section:

10 425:11-a Revolving Fund for Agricultural Hearings Officers.

11 I. There is established within the department of agriculture, markets, and food a revolving  
12 fund for agricultural hearings officers. All fines collected by the department shall be deposited into  
13 the fund. The fund shall be nonlapsing and continually appropriated to the department to fund the  
14 department's adjudicative procedures, including, but not limited to, the costs associated with  
15 contracting with one or more hearing officers who shall be responsible for administering all aspects  
16 of the department's adjudicative procedure as directed by the commissioner. The amount withdrawn  
17 from the fund shall not exceed \$75,000 in total each year. The department of agriculture, markets,  
18 and food shall every quarter forward any unpaid fines assessed in an adjudicative proceeding to the  
19 attorney general for collection in accordance with RSA 7:15-a.

20 II. At the end of each quarter of the fiscal year any balance in the fund in excess of \$10,000  
21 shall be deposited in the general fund.

22 2 New Subparagraph; Revolving Fund for Agricultural Hearings Officers. Amend RSA 6:12:  
23 II(b) by inserting after subparagraph (383) the following new subparagraph:

24 (384) Moneys deposited in the revolving fund for agricultural hearings officers under  
25 RSA 425:11-a.

26 3 Transfer of Birds and Animals; Penalty. Amend RSA 437:10, I to read as follows:

27 I. Any *person who transfers ownership of a live dog, cat, or ferret without an official*  
28 *certificate of transfer* or any pet vendor who transfers live animals or birds customarily used as  
29 household pets in this state without having a license to do so as required by this chapter shall be  
30 guilty of a misdemeanor *and may be subject to an administrative fine levied by the*  
31 *commissioner, not to exceed \$1,000 for each violation.*

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

SUBCOMMITTEE WORK SESSION on SB 367

BILL TITLE: relative to the regulatory status of advanced recycling and manufacturing facilities.

DATE:

Subcommittee Members: Reps. M. Murray, Comtois, <sup>Khan</sup> Verville, Stapleton, <sup>Johnson</sup> Homola, Andrew Bouldin and Caplan

Comments and Recommendations:

discussion on Amendment # 2022.1764h

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Bouldin Secoded by Rep. Caplan AM Vote: 4-3

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

\_\_\_\_\_ Amendment Adopted \_\_\_\_\_ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ AM Vote: \_\_\_\_\_

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

\_\_\_\_\_ Amendment Adopted \_\_\_\_\_ Amendment Failed

Respectfully submitted,

Rep. [Signature] Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

**SUBCOMMITTEE WORK SESSION** on SB 367

**BILL TITLE:** relative to the regulatory status of advanced recycling and manufacturing facilities.

**DATE:** April 26, 2022

**Subcommittee Members:** Reps. M. Murray, Comtois, Stapleton, Andrew Bouldin and Caplan

**Comments and Recommendations:** Discussion on Amendment #2022-1764h. Reps. Khan and Johnson were filling in for Verville and Homola today.

**MOTIONS:** REFER FOR INTERIM STUDY

Moved by Rep. Rep. Andrew Bouldin    Seconded by Rep. Rep. Caplan    Vote: 4-3

Respectfully submitted,

Rep. Barbara Comtois  
Subcommittee Clerk

## Heather Goley

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**From:** Save Forest Lake <saveforestlake@yahoo.com>  
**Sent:** Thursday, April 14, 2022 7:13 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** SB367

*"organizations like the American Chemistry Council (SB367 prime sponsor) are sure to double down on industry schemes like so-called "chemical recycling" to distract from the kind of upstream solutions that stop plastic pollution at the source"*

<https://www.breakfreefromplastic.org/2022/03/09/epa-regulate-chemical-recycling-for-what-it-is-incineration/>

"Advanced Recycling" is simply another iteration of this. NH deserves better, you know that. Less plastics, not more. They are trying this in numerous states, throughout the country, shameful.

Thank You!

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078  
Founder, Save Forest Lake

*"Unless someone like you cares a whole awful lot, nothing is going to get better. It's not."  
-The Lorax*

*Do not allow this proposed development to scar the beautiful landscape of the North Country for generations to come*

wastestream. As positioned in SB367, however, "advanced recycling" would likely incentivize the continued production of single-use plastics in perpetuity, at the very high cost of human, ocean, and planetary health.

Thank you for your consideration.

Melissa

Melissa Gates | Northeast Regional Manager | [Surfrider](#)

[Foundation](#) | 207.706.6378 | [mgates@surfrider.org](mailto:mgates@surfrider.org)

Pronouns: she · her · hers

*I acknowledge that I live and work within the stolen ancestral lands of past, present, and future Wabanaki Confederacy peoples. Whose land are you on?*



plastic from Thailand where Indorama has major new PET manufacturing operations to California. There is no proof that the plastic is actually recycled content. There is no physical test that can differentiate between PET and rPET. A high-profile example of a recycled content law that has done nothing to reduce plastic waste is California's plastic bag law. Major chains are importing bags with recycled content from other countries: CVS (Germany), Aldi (Germany), Target (France), and others. Consumers are being deceived that berry clamshells and plastic bags have "recycled content" that didn't come from California or the U.S.

2. **Recycled plastic is toxic.** IPEN has exposed this in numerous reports and global tests. There is no way to absolutely stop cross-contamination and toxics are harmful at the PPB level. Plastics are not inert. Plastics absorb contaminants from other containers, other contents, and machinery oils that they come into contact with. Plastics pick up the contamination of the other plastics that they sleep with in the recycle bin. More on the serious toxic risks in using recycled content for food grade plastics. Importing recycled plastic from other countries increases those risks. The FDA does not require ongoing testing of recycled PET or other recycled plastics made in US or imported.
  
3. **Recycling plastic is toxic, wasteful, and creates microplastics.** Cook et al of Leeds University in UK performed a review of over 4,000 sources of information to evaluate the risks of (1) toxics in recycled plastics and (2) toxic exposure to workers and communities in plastic recycling operations. Workers were found to be exposed to toxics in mechanical recycling operations. NAPCOR (PET industry association) reports that 30% of a PET bottle bale is wasted in reprocessing. In this announcement by CocaCola and ALPLA about a new PET bottle recycling facility in Mexico, they admit that 15,000 tonnes of the 50,000 tonnes of plastic will be wasted! **Plastic recycling is now shown to cause microplastics in wastewater discharge** – no surprise since the plastic is ground into tiny pieces. Plastic recycling takes LOTS of fresh water. Fresh water is a scarce resource around the world.
  
4. **Recycled content promotes new plastic production.** The recycled content mandates are typically low levels – between 15 to 25%. That means that 75% to 85% of the product will still be new plastic.
  
5. **Recycled content does not stop plastic pollution.** Coca-Cola is the top corporate plastic polluter in the BFFP Brand Audit every year. Their "100% Recycled" PET bottles have the same likelihood of becoming pollution as a 0% recycled PET bottle.
  
6. Another common goal behind the effort not to classify products made from advanced recycling as waste-derived is to classify the process, itself, as recycling, which is higher up on the wastestream hierarchy than more toxic and harmful practices, like chemical conversion, incineration, and landfilling. This codification has the unintended consequence of enabling producers to skirt future mandates that get at real source reduction of single-use plastics, such as extended producer responsibility for packaging.

It further opens a loophole that enables producers to claim that their waste-derived "recycled" plastic product can be locally recycled, despite chemical conversion not being at all on an even par with impacts from traditional recycling. This highly toxic practice should be leveraged only as a temporary, stop-gap measure to handle materials already in the

## Heather Goley

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**From:** Melissa Gates <mgates@surfrider.org>  
**Sent:** Monday, April 11, 2022 2:11 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** Strongly Opposed to SB367

Chair Pearl and Members of the House Committee on Environment and Agriculture:

I am writing to express deep concern for [SB367](#), which I realize passed the Senate, crossed-over, came to public hearing before your Committee last week on April 5, and is scheduled for a work session before your Committee, tomorrow.

[SB367](#) as amended by the Senate would incentivize chemical recycling in New Hampshire and be counterproductive to the ends of plastic source reduction sought by environmental advocates, residents, and many waste managers who have been rallying support behind the real solutions presented in ban/fee bills before the General Court for the last decade.

Waste handling practices of incineration, chemical conversion, pyrolysis, solvolysis, gasification, and "advanced" or "chemical" recycling are toxic practices that do nothing to achieve needed source reduction. **These practices should be de-prioritized in the wastestream hierarchy so that proper, earth and human-friendly practices, such as reuse, composting, and proper recycling, are prioritized and advanced.**

SB367 conflates chemical conversion with proper recycling, and could create the unintended consequence of incentivizing the continued use and production of single-use plastic for products that should not be made from plastic, at all, in the first place.

Chemical conversion is a different method with new branding for the continued incineration of plastic waste, which leads to new air and water pollution problems while not reducing the production of single-use plastic packaging and items in the first place, or the disproportionate impacts on communities of color from plastic production and waste handling. **Products derived from advanced recycling are in fact waste-derived, and should be treated as such.**

Burning or chemically altering plastics are not good ideas for people or the planet. Incinerators emit more carbon dioxide per unit of electricity (2988 lbs./MWh) than coal-fired power plants (2249 lbs./MWh), and have no place in our future of reuse, climate action, and clean energy.

Some key takeaways that I hope you will consider in your work session:

1. A common goal behind the effort not to classify products made from advanced recycling as waste-derived is to incentivize the use of recycled content. **However, recycled plastic content does not reduce plastic waste**: Recycled content is imported without proof of being recycled or safe. In a recent NY Times article, the PET plastic thermoform maker (that makes PET clamshells for Driscolls) is importing "recycled" or possibly new

## Heather Goley

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**From:** John Zavgren <john@zavgren.com>  
**Sent:** Monday, April 11, 2022 9:31 AM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** Oppose SB367

This bill appears to be setting up NH for sham recycling of wastes (plastics in particular) and has a provision that is likely to result in carbon emissions through an incineration process. The bill totally exempts these processes from regulation and uses processes that have in the past resulted in additional wastes (tars and other cancer causing chemicals) being produced. This bill could will once again open NH to wastes from all over the northeast.

Best regards,  
John Zavgren

--

Remember: only you can prevent fascist liars!

John Zavgren  
603-371-0513 (home)  
603-801-2094 (cell)  
603-371-2830 (work)

[john@zavgren.com](mailto:john@zavgren.com)

April 5, 2022  
Via electronic mail

TO: NH House of Representatives, Environment and Agriculture Committee  
RE: SB 367

Dear Committee Members,

I am a Registered Nurse who strives to protect public health and the environment, and I strongly oppose SB 367. This legislation is an attempt to fix social and political problems with inappropriate technology.

The City of Claremont, NH went down this road during the 1980s with a controversial waste incinerator that operated twenty-six years amid strong public opposition. When the incinerator closed in 2013, Claremont saw the end of a financial boondoggle that had damaged the City's reputation, infrastructure, and environment. Capital-intensive technology did not solve the waste problem. Unfortunately, the Department of Environmental Services and frequently the New Hampshire General Court were supporters of this debacle. The State of New Hampshire continues to show an unwillingness to support development of local, diversified, and publicly-owned programs for conservation, recycling, and composting. This has left New Hampshire with a failing resource-management infrastructure.

SB 367 creates what The Global Alliance for Incinerator Alternatives (GAIA) calls False Solutions to the Plastic Pollution Crisis. According to GAIA:

We have no more time or money to waste on dysfunctional and potentially dangerous techno fixes like chemical recycling. As we recover from the economic ravages of COVID-19, we must invest wisely in proven, common-sense solutions that will support public health and a safe environment (Chemical Recycling: Behind the Industry Hype).

The International Council of Nurses "strongly believes that nurses have a shared responsibility to sustain and protect the natural environment from depletion, pollution, degradation and destruction." I agree, and that is why I oppose SB 367. I urge the E&A Committee to do the same.

See also:

The recycling myth: A plastic waste solution littered with failure  
Nurses, climate change and health (International Council of Nurses Position Statement)  
ILSR Advises Hawaii to Avoid Solid Waste Combustion as a Waste Management Strategy  
(Existing emissions data on pyrolysis plants shows that air emissions from them can be comparable to, or even more polluting than, trash incinerators, which are dirtier than coal power plants by most measures and proven to be the most expensive and polluting way to manage waste.)

Sincerely,  
Katie Lajoie, RN  
429 Wheeler Rand Road  
Charlestown, NH 03603  
603-826-4803  
[ilje2316@gmail.com](mailto:ilje2316@gmail.com)

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iii Many of the processes listed in SB 367 involve heating. Pyrolysis is heating. Gasification also involves heating and/or addition solvents. Depolymerization such as cracking involves heating and/or adding chemicals.

From background for SB367:

“Advanced recycling” means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstock chemicals, and other products like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, and other similar technologies”

iv AR processes can use different forms of plastic such as polyethylene and polystyrene. Below are quotes from chemists about the impacts of industrial burning (pyrolysis) of these plastics.

“The polystyrene products produced pyrolysis products including toluene, styrene, benzaldehyde, and 4-phenyl-1-butyne; all consistent with previous reports. These highly flammable volatiles would be further expected to combust under flame conditions, producing carbon monoxide and carbon dioxide; prior work suggests that carbon monoxide poses the greatest health risk from the burning of both polystyrene and EPS.”

Seleem, et al. 2017. Comparison of Thermal Decomposition of Polystyrene Products vs. Bio-Based Polymer Aerogel. The Ohio journal of science 117(2):50 DOI:10.18061/ojs.v117i2.5828

v The respected business journal, Reuters, documents recent failures of several AR companies and AR projects in big corporations that are otherwise successful in established enterprises. Incomplete AR projects leave behind substantial waste on abandoned sites. If the company become bankrupt, there is no one to clean up, except the tax payer.  
[The recycling myth: A plastic waste solution littered with failure \(reuters.com\)](https://www.reuters.com/article/technology-environment/the-recycling-myth-a-plastic-waste-solution-littered-with-failure/idUSKBN1ZG0001)

**Endnotes:**

<sup>i</sup> Hazardous waste reported from AR facility Agilix and hazardous air pollutants reported in air emissions from Agilix, Alterra Energy, Braven Environmental, Brightmark, Nexus Fuels, and PureCycle Technologies. Health impacts are widely established in government and research.

Chemical	Hazardous Waste and Air Pollutants											
	Carcinogen	Reproductive toxicant	Developmental toxicant	Neurotoxicant	Persistent	Bioaccumulative	Liver toxicant	Cardiovascular toxicant	Respiratory toxicant	Kidney toxicant	Skin toxicant	Eye toxicant
<b>(1) Hazardous waste sent offsite by Agilix</b>												
Lead	X	X	X	X	X	X	X	X	X			
Cadmium	X	X	X	X	X	X			X	X		
Selenium			X	X	X	X	X	X	X		X	
1,2-dichloroethane	X			X			X	X		X	X	
Chromium	X											
Vinyl chloride	X			X					X			
Barium				X			X	X				
<b>(2) Hazardous Air Pollutants (HAPs) associated with multiple facilities</b>												
Styrene	X	X	X	X			X					X
Benzene	X	X	X	X			X	X	X			
Toluene			X	X			X	X	X	X		X
Mercury	X			X	X	X	X	X	X		X	
Arsenic	X		X	X			X	X	X		X	
Dioxins	X	X			X	X	X				X	
Ethyl benzene	X		X	X			X		X	X		X
Xylenes			X	X			X		X	X		X
Naphthalene	X			X	X	X	X		X			X
Acetaldehyde	X								X		X	X
Formaldehyde	X						X		X			X
Hydrochloric acid									X		X	X
Methanol			X	X								
Hexane		X		X								

<sup>ii</sup> “Indeed, of approximately 10,500 known plastic monomers, chemical additives and processing aids, approximately 4,100 lack any reported hazard classifications. Of the 6,436 chemicals for which hazard data are available, 3,950 have been identified as substances of low concern; of the remaining 2486 chemicals, 1,232 are of medium concern and 1,254 are of high concern.” Symeonides et al. 2021. Buy-now-pay-later: Hazards to human and planetary health from plastics production, use and waste. Journal of Paediatrics and Child Health 57 (2021) 1795–1804.

<b>Problems for Advanced Recycling</b>	<b>Explanation</b>
Releases toxins into neighborhood.	Dioxins, Benzene, Mercury & other hazardous substances are reported in air permits <sup>iii</sup> and documented by research scientists <sup>iv</sup>
Does not provide net energy benefits.	AR is energy intensive; it uses heat & mechanical energy, special chemicals & complex equipment; this waste resources & emits GHG.
Will not boost employment.	Most processes in AR are automated; big facilities have few workers.
Does not reduce waste.	AR only diverts waste and diverts resources needed for alternatives that truly reduce waste, e.g., efficient, safe product reuse; such businesses are growing and do not involve hazardous emissions.
Will not cut municipal costs for waste.	AR is costly and may even increase costs for municipalities if they send some waste to AR and some to landfills.
Unreliable businesses	Many new AR businesses are stalled or have failed to start. <sup>v</sup>
States that invite AR face new waste problems, including out-of-state waste	Increased out-of-state waste enters states with AR-friendly regulations & policies. This adds to air pollution, hazardous solid waste residuals from AR and other waste material rejected by AR facilities.

4-3-22

To: NH Senate Agriculture and Environment Committee

From: Cynthia Walter, Ph.D., Dover, NH cawalter22@gmail.com

Re: SB367 Advanced Recycling

Dear Agriculture and Environment Committee Members,

I am a scientist with 35 years of experience in teaching and research with a focus on pollution sciences including air pollution and toxicology.

**I strongly oppose SB367**, It is based on misinformation and lacks verified evidence of hazards from advanced recycling of plastic. It will worsen plastic waste problems and harm NH.

- 1- SB 367 defines "Advanced Recycling" (AR) as manufacturing. **This is a huge mistake.**
  - a. **The plastic is indeed waste, as described in the bill is as "derived from any industrial, commercial, agricultural, or domestic activities."**
  - b. **Plastic is known to contain many serious hazards such as flame retardants and stabilizers because plastic manufacturing regulations have not caught up to handle the 10,000 additives in plastic today.<sup>i</sup>**
  - c. **AR facilities collect undefined plastic mixes and process them with heat and chemicals to make even more known and unknowable toxins.**
2. As the bill states, AR will "give consideration" for AR products within in state, thus inviting new AR activities and all their toxic emissions to NH.

**Background:**

Advanced Recycling (AR) is also called Chemical Recycling and Molecular Recycling.

AR involves these steps:

1. Plastic, such as polyethylene and polystyrene, is broken down using heat and chemicals<sup>ii</sup>.
2. Toxins originally in plastic and new toxins like Dioxin formed during heating are emitted and most are allowed in air permits.
3. Two options for small molecules produced by AR:
  - a. Burn for energy, releasing toxins and greenhouse gases.
  - b. Use for new products, requiring virgin plastic from fossil fuels, oil and gases, most recently those from fracking. This step also releases toxins.

**AR is not manufacturing -it is waste burning, even though the bill states**

"Advanced recycling facility" means a facility that receives, stores, and converts post use polymers and recovered feedstock it receives using advanced recycling. An advanced recycling facility shall be considered a manufacturing facility."

**AR products are derived from waste and often waste that contains many hazards.**  
even though the bill states:

***"Products derived from advanced recycling shall not be considered waste-derived products or require certification as waste-derived products."***

But the above statement says, " post-use polymers and recovered feedstock" = waste



from environment-degrading and health-endangering pollution. It encourages increased fossil fuel extraction, processing and energy expenditures that would result in extensive contributions to climate change and the path to extinction of life as we know it. It is wrong-headed on so many levels. Any employment that might be touted as an incentive would be positions posing great hazard to those thus engaged. Plastics are toxic from beginning to end - forever. It is widely recognized that the "technologies" being ballyhooed are not scalable or viable. The products when produced are of low quality and undesirable. Please see:

<https://www.reuters.com/investigates/special-report/environment-plastic-oil-recycling/>

Those standing to gain significantly from this legislation are the fossil fuel industry, the chemical producers, and the waste industry. It is particularly ominous that this industry-authored bill seeks to categorize these incineration-by-another-name facilities and operations as manufacturing and the feedstocks, products, and by-products as something other than waste. It is not a mystery as to what would be some of the motivation. Activities around waste are subject to regulation, though vastly insufficient as relates to actual hazards and outcomes. Nevertheless, there is at least an attempt to develop policy approaches. Manufacturing categorization opens the occasion for obfuscation and proprietary claims by corporations to relegate oversight and regulation null and void.

This legislation serves no good purpose for New Hampshire citizens, nor her neighbors. The impacts from such polluting activities do not cease and desist at lines on a map. If passed, this bill would establish an open invitation to those who seek to avoid the responsibility of the serious work needed to manage production, consumption and discards in ways that are sustainable. New Hampshire would become a regional target and sacrifice zone for increased toxic activity.

I urge The Committee to serve the citizens of New Hampshire and vote **SB 367 Inexpedient To Legislate.**

Thank you for considering my comments.

Jacquelyn Elliott  
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Waterboro. ME 04087-3210  
(207) 247-0103  
[j.c.elliott@roadrunner.com](mailto:j.c.elliott@roadrunner.com)

## New Hampshire House Committee on Environment and Agriculture

**SENATE BILL 367**

AN ACT relative to the regulatory status of advanced recycling and manufacturing facilities

**April 5, 2022****Testimony OPPOSED**

Honorable Chair Representative Pearl and Honorable Vice Chair Representative Aron and Honorable Committee Members:

Thank you for the opportunity to offer testimony **IN OPPOSITION** to SB 367. My name is Jacquelyn Elliott. I am a native Granite Stater retired to Maine since 2010. I have been engaged as an environmental health and justice advocate for nearly three decades. Much of that work has been centered on the issue of moving waste management policy in the direction of sustainability and protection of public health and the environment. Those efforts in New Hampshire concluded in the closure and capping of a leaking ash landfill threatening a source of my community's drinking water and the shuttering of a waste-to-energy incinerator spewing tons of toxic pollution over our homes and schools and beyond. Additionally, efforts that included a broad cross section of citizen involvement, Legislative support, and backing from Governor Lynch and his Administration culminated in an important milestone to protect the rights and health of New Hampshire's citizens and the environment. A law was passed preventing the combustion of the toxic construction and demolition (C&D) waste stream. That prohibition held for a decade until the waste industry was successful in partially overturning the restriction.

New Hampshire was a leader with that bold step to stop burning C&D. It has been good policy to move New Hampshire away from incineration. There is, however, still work to be done to not regress further but instead move forward in an improved direction. There is the need to approach waste management from the front end with strategies that reduce the volume of waste generated; lessen the inputs of toxins; reclaim valuable materials; and gainfully repurpose resources. Residuals must be safely managed. Policy development and regulation must include participation of citizens most affected and that maintains their rights in the framework of protecting public health, the environment, and economies.

SB 367 represents many steps backwards from such goals. To put it more precisely – it is perilously putting lipstick on the incineration pig. This bill opens the way for increased hazards

and keep food fresh. This is important because food is a huge contributor to greenhouse gas emissions.

- Thanks to advanced recycling, these plastics can be recycled and converted into a versatile mix of products.
- This is a feedstock of raw material. One misconception is that they only produce fuel, but they can be used in a variety of recognizable products.
- Wendy's fast-food restaurant has recently begun using plastics cups made up of 20 percent recycled plastics thanks to advanced recycling. Herbal Essence, the beauty product company has also begun producing shampoo and conditioner bottles made of 50 percent certified recycled plastic.
- As manufacturers, the facilities are subject to a litany of federal, state, and local environmental regulations.
- It would be beneficial for New Hampshire to develop this industry and 15 other states have adopted similar legislation.
- Senator Watters asked Mr. Cookson if he would be opposed if they changed the language to give DES more flexibility. Mr. Cookson would prefer tighter language that is more prescriptive as opposed to granting the department almost carte blanche authority.
- Senator Watters thinks that it would be best for ACC to work with DES to create better language. ACC will be happy to help with any language suggestions.
- Senator Giuda asked if Mr. Cookson would be comfortable with Senator Gray's suggestion on blending the language. Mr. Cookson would like to look at the language first.

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Date Hearing Report completed: February 11, 2022

- Senator Avard stated that the language of the bill has been adopted by 15 other states. He asked if any of these companies have gone bankrupt. Mr. Wimsatt stated that he does not know. He does not believe that the facilities are at risk of failing.
- Senator Avard stated that this bill would open the door to developing these manufacturing businesses in NH. Mr. Wimsatt clarified that DES is supportive of the bill.
- Senator Gray believes that the distance from the treatment facilities is not cost effective. Mr. Wimsatt clarified that being closer to the supply is generally more helpful but believes that the facilities would be able to operate anywhere in the state.
- Senator Watters asked why DES's language was not used. Senator Avard clarified that it was his choice. He would like to begin the process. Senator Giuda disagreed with Senator Avard on the issue of the language. He believes that the current language does not give DES enough flexibility and it may disincentivize companies from locating in New Hampshire. Senator Avard believes that it is appropriate because of the difference of treatment between facilities that generate the solid waste and those that receive it.
- Senator Watters asked if it would make more sense based on New Hampshire's past experiences to allow DES to inspect and preemptively address issues. DES wants to be able to address very specific issues. Under current law, the materials are considered solid waste. If the bill passes with this language, they will not have the authority anymore because the material will no longer be considered solid waste.
- Senator Gray suggested blending the language of the bill with the language DES prefers.

**Craig Cookson, American Chemistry Council**

- ACC supports the bill. ACC strongly encourages the committee to ensure New Hampshire's interest by ensuring that greater amounts of post-use packaging materials, especially plastics, are recycled and converted into feedstocks for new plastics and other useful products.
- Advanced recycling helps to decrease plastic waste and support continued progress towards zero waste and sustainability goals for our communities.
- Residents of New Hampshire will have the opportunity to recycle greater amounts and types of plastics packaging. Advanced recycling takes hard-to-recycle plastics and refers to several different technologies that convert used plastics into their original building blocks.
- New Hampshire and the rest of the United States do a fairly good job of mechanically recycling soda bottles, water bottles, detergent bottles, etc., however it is challenging to mechanically recycle complexly engineered packaging such as pouches and tubes. These plastics greatly reduce food waste

recyclables are collected and sent to a materials recovery facility in Massachusetts where the recyclables are sorted and baled.

- Senator Giuda stated that New Hampshire a great deal of material sent to New Hampshire landfills comes from out of state. Senator Giuda asked if we can require other states to segregate the plastics out of the waste streams that eventually come to New Hampshire landfills. Mr. Wimsatt stated that no one is required by law to separate recyclables. However, other states have passed laws that require the separation of recyclables so it could also be done in New Hampshire.
- Senator Giuda acknowledged lines 9-12 of the amendment and asked if facilities would be given warnings prior to being reclassified as a process and treatment facility if they fail to comply. Mr. Wimsatt believes that the language is troublesome. The language that DES recommended was “the department is authorized to enter and inspect any advanced recycling facility to determine whether the storage of post-use polymers or recovered feedstocks poses a substantial threat to human health or the environment. The department may utilize its enforcement authorities under 149 M15 to address any such identified threats”. This will give DES the authority to use its existing authority under the solid waste statute to address problems and does not thrust the facility back into the solid waste realm. Senator Avard asked if DES uses this same standard with other manufacturing organization. Mr. Wimsatt clarified that this would be unique, and he suggested this because if this was not a facility that was taking recycled plastics, it would be taking raw polymers from the chemical manufacturing industry. There would be no food or beverage residues and therefore no reasons for DES to call it solid waste.
- Senator Avard asked how this would apply to other facilities that generate this waste. Mr. Wimsatt clarified that every facility generates solid waste. The difference is that this bill is addressing a facility that is receiving what is currently considered solid waste. The bills’ specific purpose is to exempt the facilities by not considering the material as solid waste.
- Senator Avard asked if some of the waste that the facilities would handle is waste that they would want to recycle. Mr. Wimsatt said this is unlikely because the materials have already been baled and are ready for the market. There is no place to put it.
- Senator Avard asked if the cost of sending the plastics out of state is an incentive for local municipalities to simply put it in a landfill instead. Mr. Wimsatt clarified that commodities prices are strong again and it is unlikely that that will happen. There is no doubt that some recyclables are making it to landfills anyway.
- Senator Avard stated that there are no other facilities like this in the region. He asked what Massachusetts does with all the plastics they receive. Mr. Wimsatt clarified that the recyclables to manufacturing facilities to be turned into products.

condition of using New Hampshire landfills. Ms. Koch believes that question would be better answered by DES.

- Senator Watters asked for clarification regarding if these plastics can only be used to manufacture new products and not also be used as a type of fuel. Ms. Koch did not know the specifics of the use of the products; however, they can be turned into materials that can be used for other manufacturing needs.

#### Mike Wimsatt, DES

- DES is in support of SB 367. There are a few issues with the bill that they would like addressed.
- Lines 9-12 of the amendment reads “The department may make inspections of advanced recycling facilities to ensure compliance that post use polymers are used as raw materials for advanced recycling and are not refuse or solid waste. Failure to comply may result in classification as processing and treatment under the universal facility standards in Env-Sw 1000”. This language was in response to concerns raised by DES but is unlikely to happen. If a facility is doing well, there will be no reason to regulate them as a solid waste facility.
- Because the language of the bill involves sweeping exemptions for what can be considered solid waste, DES may struggle to find the authority to go in and inspect certain cases. DES recommends that the language be changed to more clearly define the authority of DES to go in and inspect cases that may not be considered solid waste.
- Mr. Wimsatt would like to ensure that DES is able to be responsive to citizens in the future in the unlikely event of a challenging scenario where their authority is called into question due to the bill’s language.
- Senator Watters asked if the authority DES has currently to regulate facilities as manufacturing facilities would ensure that the department can address siting and environmental concerns. Mr. Wimsatt said that Env-Sw 1000 are a set of broad rules that apply to a facility. Mr. Wimsatt also clarified that advanced recycling facilities have additional standards under the solid waste rules that apply to it. If SB 367 passes, those additional standards are eliminated. Senator Watters asked if DES would be willing to help change the language of the bill so that the purpose is to try to source materials for the facilities in-state instead of out-of-state. Mr. Wimsatt believes that this would be appropriate and desirable. He believes that advanced recycling facilities would be good for the state and that the facilities would be able to compete in the market. He would like to make sure that there is no language in the bill that would disincentivize people from opening these facilities in NH.
- Senator Giuda asked if the plastics that the facilities would use are segregatable for the purposes of being turned into something useful. Mr. Wimsatt confirmed that they are segregatable and explained that there are two ways this happens. Firstly, people may use a towns transfer station. The second way is the

plastics. There are no other such facilities in the northeast, so we want this type of manufacturing in New Hampshire.

- Amendment 0195s that was written in conjunction with DES and the American Chemistry Council. It deletes the definition of refuse as requested by DES. It amends the language on page 4 regarding the authority of the department. Senator Avard is unsure if the amendment has completely satisfied the department, however he believes the amendment is sufficient.
- Senator Avard stated that his goal is to pass the enabling language to help New Hampshire and it can help our solid waste needs by diverting plastics from our landfills. It will also help recycling and help our economy by bringing good jobs in manufacturing and STEM fields

#### Kirsten Koch, BIA

- BIA serves as a statewide chamber of commerce, and they represent over 400 members. BIA supports SB 367. The bill furthers environmental sustainability and brings economic benefits to New Hampshire.
- The bill improves New Hampshire's solid waste management goals by preventing traditionally hard-to-recycle plastics from going into New Hampshire landfills. Instead, the bill gives advanced recycling facilities the opportunity to manufacture these products into a variety of reusable materials.
- The bill encourages advanced recycling facilities to come to New Hampshire for business ultimately creating more jobs for the local economy.
- The bill provides regulatory certainty for advanced recycling facilities. The main function of these facilities is to manufacture new materials, not dispose of waste. They need to be appropriated regularly.
- BIA believes that New Hampshire should welcome sustainable business and regulate advanced recycling facilities as manufactures.
- Senator Watters asked if there would be a way for the industry to make a commitment to source materials from New Hampshire. BIA would not be opposed to this.
- Senator Watters asked if the industry would be willing to help craft a purpose statement that specifically defines addressing the solid waste crises in New Hampshire.
- Senator Gray stated that many of New Hampshire's landfills already take in refuse from other states. He asked if it would be more appropriate to address this issue on a regional basis. Ms. Koch believes that this bill would contribute to reducing waste in all of New England. This type of regulation has been implemented in 15 other states but is not thoroughly present throughout New England. Overall, it will reduce waste that goes into landfills in New England as a whole.
- Senator Giuda asked if New Hampshire can mandate that other states segregate these types of plastics before they come to New Hampshire as a

**Senate Energy and Natural Resources Committee**  
*Daley Frenette 271-3042*

**SB 367**, relative to the regulatory status of advanced recycling and manufacturing facilities.

**Hearing Date:** February 8, 2022

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

**Members of the Committee Absent :** None

**Bill Analysis:** This bill regulates advanced recycling and manufacturing facilities.

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**Sponsors:**

Sen. Avard	Sen. Watters	Sen. Hennessey
Sen. Bradley	Sen. Soucy	Sen. French
Sen. Cavanaugh	Rep. Pearl	Rep. Potucek

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**Who supports the bill:** Kirsten Koch, BIA, Craig Cookson, American Chemistry Council, Representative John Potucek, Rockingham-District 6, Mike Wimsatt, NHDES, Senator Bradley, Senate District 3, Senator French, Senate District 7, Susan Chase, Bruce Berk, Janet Moore, Judith Saum.

**Who opposes the bill:** Patricia Martin, Lynn Merlone, Jane Hershey, Anne Thomas.

**Who is neutral on the bill:** None.

**Summary of testimony presented:**

Senator Avard, Senate District 12

- The goal of this bill is to incentivize private investment to come to New Hampshire and develop another method of keeping plastic out of landfills and advanced recycling facilities. There is an ongoing issue with New Hampshire landfills. Allowing plastics that cannot be recycled into landfills is not an option.
- The bill also aims to establish a clear regulatory path for these types of recycling facilities to be treated as manufacturing facilities and not as solid waste facilities. 15 other states have passed similar regulations to meet with the intent to attract private investments to their states that would bring good jobs in stem fields and construction as well as other ways to recycle other hard handled



Thank you, see you on Tuesday!

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078  
Founder, Save Forest Lake

*"Unless someone like you cares a whole awful lot, nothing is going to get better. It's not."  
-The Lorax*

*Do not allow this proposed development to scar the beautiful landscape of the North Country for generations to come*

is have their plastic waste hauled to their nice little neighbor, New Hampshire! Welcome to New Hampshire, The PLASTIC State! You will also hear Senator Gray mention that a "regional approach" is needed. New Hampshire would be the "regional solution". No thanks!

12. This bill would also provide justification for the production of even more plastics by industry. Is that what we want for our state and environment?

13. Please reflect back on the history of St. Gobain, as Senator Watters briefly mentions during the hearing. That company chose to consolidate its operations in NH BECAUSE of NH's lax environmental regulations. Why St Gobain Chose NH over VT Remember, "*advanced recycling is a processes that uses heat or chemicals to turn plastic waste into fuel or reclaimed resin to make new plastic*". What unlucky community is to be home to this new industrial development that will be burning PFAS-laden material? Do you really want to enable such industry in this state?

14. I'd also like to note that Senator Watters questions whether this bill would have any impact on out-of-state waste and reducing NH landfill capacity pressure. he never gets an answer. However, just last month, Casella's Joe Gay stated, before your E&A subcommittee work session on HB1454, that any waste diversions which are realized in NH would only lead to the "backfilling" of that unused landfill capacity by out of state trash.

Video from 2/22/22 House E&A subcommittee work session and discussion on "backfilling" with Casella's Joe John Gay: <https://youtu.be/5iPdy9IGmOY>

15. More questions remain, such as how will the amount of plastic waste be tracked? NHDES does not even require landfill operators to report out of state waste numbers, except in the annual facility report. The NHDES Biennial Report, due in October, 2021, is nearly 6 months late. With this potential influx of plastic waste from across the region, into New Hampshire, how would the volume be tracked, and by whom? It's not as if NHDES is already understaffed and underfunded.

There are just so many unknowns within this bill, and even greater potential for so many unknown and unforeseen consequences, should it be passed into law. Why the rush?

At this point, SB367 could potentially have significant, negative impacts for the state, and most certainly, for the localities where such facilities may be sited. Until NH can gain control on how to curb the influx of out-of-state trash, which the NH Solid Waste Working Group is looking at, SB367 does nothing but guarantee more out-of-state plastic waste, as well as the potential for more contamination and degradation of our state's natural resources, environment. We need to focus our efforts on economic growth within the state in ways that embrace those qualities and traits that make New Hampshire such a great place to live, visit, and recreate.

I do hope your committee will do the right thing and vote to recommend ITL on SB367.

Link to the 50 minute video from the Senate E&NR Committee hearing (2/8/22) on SB367, cued to 55:17.

Senate E&NR Executive session (2/22/22) for SB367, cued to 2:14:53: <https://youtu.be/URAIR2RThxQ?t=8093>

Senate Session, vote on SB367, (2/24/22), cued to 1:31:02: <https://youtu.be/r51s9Js0DA>

I have also attached the bill text and hearing minutes.

4. Why is this change necessary to make New Hampshire a more attractive place to introduce an "advanced recycling" facility(ies)? How many could potentially be built and how is that determined? Is there a "public benefit" determination before any could be built? How are they to be sited? Where? Who provides oversight of the facility?
5. Director Wimsatt states that he doesn't know what one of these facilities might look like, also calling this situation "unique". He states that he thinks it's "not beyond the realm that a facility could be cited in the North". Great, another waste-related facility to be sited in the sacrifice zone of the North Country! In fact, Director Wimsatt's statement was in response to Senator Gray's astute observation that it would actually make more sense to site these facilities closer to the source of the waste generation, i.e. population centers, meaning more savings due to hauling expense, etc.
6. Chairman Avard excitedly states in the hearing "that he wants to get this ball rolling". I do hope your committee will ask Senator Avard if there is a deal in the works. I find it interesting that Chairman Pearl is also a sponsor of the bill, and it certainly raises eyes, and more questions, that NHDES WM Director Mike Wimsatt supports it as well. Craig Cookson of the American Chemistry Council even testifies that they have been working closely with NHDES from the start. If there is a proposed project looming in the background, it should be disclosed.
7. During the hearing, the testimony from Director Wimsatt comes off as strange, as what I heard in his testimony would lead me to believe he would be opposed, yet seems to be oddly predisposed to supporting it. This is especially true in the sense that in light of all of the previous testimony I've heard from Director Wimsatt, on other environmentally-related bills, he tends to be very non-committal, while offering critiques. Such a facility like this in New Hampshire would such a huge undertaking, yet with so little known about what it really is, as he even states. So the question seems to remain, why is this being bill being proposed?
8. Why would New Hampshire want to alter rules and regulations in order to ATTRACT a business like this? With what we know about plastics and PFAS, why on earth would we go out of our way, to purposely exclude such controversial "facilities" from environmental protections currently on the books, just to attract a business like this to New Hampshire? Does New Hampshire really want to get into the plastics business? Perhaps there is a very good reason why no other New England state has an "advanced recycling and manufacturing facility", as stated by bill sponsor Senator Avard in the beginning of the committee hearing?
9. **From the bill:** For the purposes of this chapter, "advanced recycling" **shall not be considered solid waste management, solid waste processing, waste processing, treatment, incineration, or combustion** WHY? Isn't that what they are doing with the plastic waste?
10. This 2021 article from Reuters casts further doubt on the desirability of what is being promised and proposed. [The Recycling Myth](#). Statistics from this article reveal a staggering lack of success for "advanced recycling" projects across the globe. Here's another article from 12/21 that further discusses the problems associated with advanced recycling: [Chemical Recycling: A Summer of Disillusionment](#).
11. What this bill proposes would make New Hampshire the home to the ever-growing plastics problem across the region. Plastics from MA, CT, ME, VT, and even Canada, as Director Wimsatt mentions, would be trucked into New Hampshire. In fact, were we to allow for this type of industry, why would any of our neighboring states allow for one within their borders? All they would need to do

## Heather Goley

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**From:** Save Forest Lake <saveforestlake@yahoo.com>  
**Sent:** Sunday, April 3, 2022 4:04 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** Please OPPOSE SB367/Hearing Tuesday/Please Vote ITL  
**Attachments:** Hearing Minutes For SB367.pdf; billText SB367 amended.pdf

Good Afternoon Chairman Pearl and House Environment and Agriculture Committee Members:

This Tuesday, 4/5/22, your committee will hold a hearing for SB367, "*AN ACT relative to the regulatory status of advanced recycling and manufacturing facilities*". The goal of the SB367 is to ease regulatory oversight of a very problematic **waste product**, i.e. **used plastics**. The bill refers to this waste product, "*post use polymers and recovered feedstock*". Sounds much nicer, right? However, these facilities are not utilizing raw, virgin material/feedstock for a manufacturing facility, but a regulated, contaminated waste product that is to be "recycled" via the use of heat and chemicals, reducing the plastic waste into whatever byproducts are derived from the process. But **WHY** the need to change the regulatory oversight of such a facility? What unintended consequences may arise from doing so?

### **From SB367:**

I-b An advanced recycling facility shall be considered a **manufacturing facility**. For the purposes of this chapter, "advanced recycling facilities" **shall not** be considered facilities, solid waste facilities, solid waste management facilities, waste management facilities, processing/treatment facilities, solid waste collection, storage, and transfer facilities, processing facilities, treatment facilities, or incinerators.

I have read the bill, as amended, the hearing minutes, attached, as well as viewed the committee hearing executive session, and subsequent vote of OPA by the Senate. I do recommend spending 50 minutes to watch the video of the hearing (You can skip thru BIA's non-contribution to the discussion). The video of the exec session and floor vote don't contribute anything, but links to cued video are provided for you.

Here are a few reasons why you should be opposed to this bill:

1. There are a LOT of ASSUMPTIONS being made about this bill, and the hearing on it produced very little substantive discussion on what the bill means for New Hampshire. There are so many unanswered questions about this bill. If such a business(es) were to come to New Hampshire, why can it/they not do so without this bill?
2. The bill's sponsor, E&NR Committee Chair, Senator Kevin Avar, is very motivated to rush this bill thru his committee. He even declines to take questions, deferring to those providing subsequent testimony.
3. I get the feeling that there a project waiting in the wings for this bill. It would certainly seem so, since this bill is so specific and Senator Avar seems very animated in his efforts to get this thru committee.



A recent [report released](#) in November 2021 by Closed Loop Partners, a New York based investment firm, found that advanced recycling technologies can process many types of plastics into a versatile mix of end products and can help double the plastics packaging recycling rate by 2030. The report notes the important role that policymakers, investors and the plastics value chain play in achieving success. This recent report comes on the heels on Closed Loop's April 2019 report that found there was a [\\$120 billion economic opportunity](#) in North America via advanced recycling.

Additionally, ACC is a leader in calling for policy approaches that will help Americans recycle more types of plastics. Our "[5 Actions for Sustainable Change](#)" calls for a national 30% recycled plastic target for all plastics packaging. A July 2021 [analysis by Independent Commodity Intelligence Services \(ICIS\)](#) estimated that it will require 13 billion pounds of recycled plastic per year to reach a 30% recycled plastic target in the U.S. and that it will take both mechanical and advanced recycling to get there. Lastly, the U.S. Environmental Protection Agency recently recognized in its [National Recycling Strategy](#) to achieve its 50% national recycling rate by 2030, the important potential of advanced recycling technologies in achieving that goal.

Finally, it is important to state that a [recent report](#) showed that air emissions from these facilities are expected to have roughly similar or lower air emissions (CAPs) than many common facilities such as universities, hospitals, food and auto manufacturers found in the U.S. Additionally, that the technologies employ the latest emissions control technologies and are subject to strict limits under the U.S. Clean Air Act. Even so, these facilities are expected to have emissions well below federal permitting thresholds and are well-regulated by state and local air authorities.

In closing, ACC would like to reiterate the importance of New Hampshire recognizing that advanced recycling is a manufacturing process that will enable us to recycle greater amounts and types of plastics. And, that the products of chemistry it produces are secondary raw materials (recycled products) that are being put back into commerce as new food, pharmaceutical and medical contact packaging. Recognizing and creating the opportunity for advanced recycling to grow in New Hampshire will help enable the State to meet its goals to recycle more post-use materials and send less of these materials to landfills or incinerators.

Sincerely,

A handwritten signature in black ink that reads "Margaret M. Gorman". The signature is written in a cursive, flowing style.

Margaret M. Gorman  
Senior Director, Northeast Region  
American Chemistry Council





Advanced recycling refers to several different technologies that **convert used plastics into their original building blocks**, to produce new plastics, waxes, and other valuable products. Advanced recycling technologies can expand the scope of materials we can recycle, help preserve the value of resources in our economy, and bridge the gap between the supply and demand for high-quality recycled plastics used in food-grade and pharmaceutical applications.

Advanced recycling helps us to achieve a circular economy and close the loop on plastics. Having a transparent regulatory framework for advanced recycling facilities in New Hampshire will enable advanced recycling to grow in the state, bringing in jobs, creating economic development, and increasing the amount of plastics recycled instead of landfilled.

Advanced recycling facilities have a smaller environmental footprint than common manufacturing operations, including food processing, auto manufacturing, hospitals, and universities. A [2021 report](#) from Good Company, a sustainability consulting firm, studied the emissions of advanced recycling and found them to be very low. Just like other manufacturing facilities, advanced recycling facilities are regulated under the U.S. Clean Air Act and would also have to comply with any regulations at the state and local level.

Many global brand companies have set sustainability goals to include more recycled plastic in their packaging. Advanced recycling complements mechanical recycling in helping companies meet their commitments. Recycled plastic generated through advanced recycling has even been approved for use in certain food- and pharma-contact packaging.

Advanced recycling technologies enable post-use plastics that currently do not have strong end markets (e.g. films, pouches, tubes, foam, lids) to be converted back to their basic chemical building blocks. These chemical building blocks can then be used to produce new food grade plastics, chemicals, and other valuable products of chemistry such as waxes and lubricants. Technologies such as pyrolysis, gasification and depolymerization heat plastics in an oxygen deprived environment, without combustion, and convert the plastics to liquid feedstocks that can be remanufactured into a versatile mix of new products for remanufacturing. We are seeing advanced recycling in action across the United States with many incredible examples of circularity. Some examples include:

- Wendy's is moving away from its lined paper cups to [new plastic cups](#) that will be made with 20% recycled plastics. The cups will be certified by the International Sustainability & Carbon Certification Plus (ISCC+) system and are the result of a partnership between LyondellBasell, Berry Plastics and Wendy's.
- Procter & Gamble's Herbal Essences brand [will be the first P&G brand to use Eastman Renew's advanced recycling plastic](#) in its packaging. Herbal Essences will introduce five shampoo and conditioner collections made from 50% ISCC+ certified recycled plastic.
- Chevron Phillips has [completed its first commercial sales](#) of its ISCC+ certified Marlex® Anew™ Circular Polyethylene derived from advanced recycling of plastics. Chevron-Phillips has set a goal to produce one billion pounds of their circular polymers by 2030.
- Exxon Mobil and Agilyx have partnered to create Cyclyx International to [prepare plastic feedstocks for advanced recycling](#). ExxonMobil will use these plastics as it recently announced plans to build its [first large-scale advanced recycling facility](#) in Baytown, Texas.



April 5, 2022

Hon. Howard Pearl  
Chairman, House Environment and Agriculture Committee  
New Hampshire House of Representatives  
Legislative Office Building, Room 303  
107 North Main Street  
Concord, NH 03301

**Re: Support for SB 367- Regulation of Advanced Recycling and Manufacturing Facilities**

Dear Chairman Pearl and Members of the House Environment and Agriculture Committee:

The American Chemistry Council (ACC) is a national trade association representing chemicals and plastics manufacturers in the United States, including member companies in New Hampshire. The chemical industry directly employs over 2,049 people in New Hampshire and indirectly supports another 1,185 jobs and generates over \$155 million in payroll over 68 establishments, supporting the needs of New Hampshire and its residents.

Over 96% of all manufactured goods are impacted by the business of chemistry, making this industry an essential part of every facet of our nation's economy. Chemistry provides significant economic benefits in every state including New Hampshire. Thanks to chemistry, our lives are healthier, safer, more sustainable and productive than before.

ACC is an expert resource on innovative plastics recycling programs to improve plastics circularity nationwide. ACC strongly encourages the Committee to support New Hampshire's interest in ensuring that greater amounts of our post-use packaging materials, especially plastics, are recycled and converted into feedstocks for new plastics and other useful products.

We respectfully request the Committee supports classifying advanced recycling technologies as manufacturing facilities in New Hampshire, which will enable residents of New Hampshire to recycle greater amounts and types of plastics packaging. Advanced recycling helps us decrease plastic waste, support continued progress toward zero waste and sustainability goals for communities and states.

New Hampshire can accelerate the adoption and growth of advanced recycling in the state by ensuring these technologies are properly regulated as manufacturing and not waste disposal in the state. These technologies receive plastics that has been sorted and/or source separated and use these plastics as a raw material to manufacture higher value, marketable products that can go back into plastics manufacturing again. Throughout the U.S., policymakers are looking for proactive solutions to encourage greater amounts and types of plastics are recycled in their states. As a result, eighteen states to date have reformed their laws to acknowledge they are manufacturing facilities and states in the Northeast have introduced similar legislation.





Across the U.S., more than \$7.5 billion in advanced recycling projects have been announced or are already operating in the United States, with the potential to divert 11.7 billion pounds of waste from landfills. Adopting legislation to sensibly regulate advanced recycling technologies would open New Hampshire to companies that are investing in and developing advanced recycling facilities.

Advanced recycling is an important part of the solution to a global and domestic challenge of sustainably managing our plastics after use. A circular economy for plastics will help New Hampshire reduce the amount of waste going to landfills, oceans, and incinerators; conserve natural resources; develop a more competitive recycling market; increase jobs, combat climate change; and help to address inequity and environmental justice concerns.

Thank you for your consideration.

Sincerely,

American Chemistry Council

Braven Environmental

Brightmark

Flexible Food Packaging Association

Foodservice Packaging Institute

Plastic Energy

Plastics Industry Association

Printing United Alliance





April 5<sup>th</sup>, 2022

Rep Howard Pearl  
Chairman, House Environment and Agriculture Committee  
New Hampshire House of Representatives  
107 North Main Street  
Concord, NH 03301

**Re: Support for SB 367- Regulation of Advanced Recycling and Manufacturing Facilities**

Dear Chairman Pearl and Members of the House Environment and Agriculture Committee:

We respectfully encourage support for SB 367, a bill that promotes sensible regulation of advanced recycling facilities as manufacturing facilities in New Hampshire. This legislation would help provide regulatory certainty for advanced recycling processes, further the state's environmental goals, and create economic opportunities.

As background, advanced recycling refers to several different technologies that convert post-use plastics into their original chemical building blocks for the production of new plastics, waxes and other products. These technologies complement traditional recycling methods and are essential to helping consumer goods companies meet their goals for using more recycled plastics. Advanced recycling also is essential to helping keep plastic waste out of our environment and create more jobs in New Hampshire.

Eighteen states to date have adopted policies that modernize laws and recognize advanced recycling technologies as manufacturing processes. Diverting recoverable plastics in New Hampshire from landfills for conversion to feedstocks for new plastics could displace hundreds of thousands of tons of plastics created from virgin natural resources every year.

And, while this technology may be new to New Hampshire, across the country, private companies are already manufacturing post-use plastics at a commercial scale into a versatile mix of valuable new products.

Plastics contribute to sustainability via sanitary packaging that reduces food spoilage, help lightweight automobiles and enable more energy efficient buildings and homes. However, we need to do a better job of recycling and recovering plastics after use as only 8.5% of plastics are currently recycled each year according to the U.S. Environmental Protection Agency. Advanced recycling technologies can process plastics that do not have strong end markets, thus enabling a more circular economy for plastics.



deregulatory laws, and many are in or near communities of color, low-income communities, or communities of limited English proficiency. By design, the plastics-burning industry is expanding most rapidly where there is little oversight or accountability and where historically marginalized and overburdened communities are at highest risk.

Importantly, Connecticut, Rhode Island, and Massachusetts all rejected proposals that would make it easier to build plastics-burning facilities. If New Hampshire enacts SB 367, it likely would result in the state becoming the plastics-burning capital of New England. New Hampshire is already struggling to manage the hundreds of thousands of tons of waste hauled in from neighboring states every year.<sup>21</sup> SB 367 would see the amount of out-of-state waste increased, all at the expense of New Hampshire's environment and the health of its residents.

#### IV. Conclusion.

“Advanced recycling simply is not recycling. It is a new form of incineration. SB 367 would bring to New Hampshire the frightening and dangerous trend of exempting plastics-burning facilities from commonsense solid waste regulation. If “advanced recycling” is as safe as the industry claims, they should not be worried about being regulated as a solid waste facility. Nor should it be seeking special treatment through deregulation.

The potential impacts of SB 367 are dire for the people and communities who will live near these facilities, if built, and the environment. New Hampshire should not make it easier to build these polluting facilities. Instead, we must focus on proven and effective solutions to managing plastics waste like recycling and extended producer responsibility for packaging laws. CLF urges the Environment and Agriculture Committee to oppose SB 367, and vote *inexpedient to legislate*.

Thank you for your time and consideration of these comments.

Respectfully submitted,

A handwritten signature in cursive script that reads "Peter W. Blair Jr".

Peter Blair, Esq.  
Staff Attorney, Zero Waste Project  
Conservation Law Foundation  
Email – [Pblair@clf.org](mailto:Pblair@clf.org)  
Phone 207-210-6439 x. 5017

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<sup>21</sup> David Abel, *As Landfill Space Dwindles in Massachusetts, New Hampshire Has Become the State's Dumping Ground*, Boston Globe, (July 19, 2021), <https://www.bostonglobe.com/2021/07/19/metro/landfill-space-dwindles-massachusetts-new-hampshire-has-become-states-dumping-ground/>





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“advanced recycling” facilities have been proposed since the early 2000s.<sup>10</sup> Only three are operational.<sup>11</sup>

### III. SB 367 Is Part of a National Lobbying Effort.

Despite the repeated failure of “advanced recycling” facilities, in the last several years dozens of new facilities have been constructed or proposed throughout the U.S. This rapid expansion is the result of lobbying efforts by the plastics and petrochemical industries to pass legislation like SB 367 that make it easier to burn plastics using these unproven and polluting processes. The practical effect of the laws is that these plastic-burning facilities are not subject to the siting restrictions, pollution controls, reporting requirements, and public permitting processes that solid waste incinerators must ordinarily undergo.

Between 2017 and 2019, eight states – Florida, Wisconsin, Georgia, Iowa, Tennessee, Texas, Illinois, and Ohio—passed industry-backed deregulation legislation like SB 367.<sup>12</sup> Pennsylvania followed suit in 2020.<sup>13</sup> And in 2021, Virginia,<sup>14</sup> Oklahoma,<sup>15</sup> Arizona,<sup>16</sup> Arkansas,<sup>17</sup> Louisiana,<sup>18</sup> all passed deregulation laws. This year, Mississippi, and South Carolina have passed deregulation laws while West Virginia, and Kentucky are considering similar measures.<sup>19</sup>

The U.S. Environmental Protection Agency recently published a list of forty proposed gasification and pyrolysis facilities.<sup>20</sup> Almost half of these facilities are in states that have passed

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<sup>10</sup> Patel, *supra* note 1.

<sup>11</sup> *Id.*

<sup>12</sup> See Global Alliance for Incinerator Alternatives, *State Legislation Alert* (July 28, 2020), [https://www.no-burn.org/wp-content/uploads/US-ACC-State-Legislation-Alert\\_updated-July-2020.pdf](https://www.no-burn.org/wp-content/uploads/US-ACC-State-Legislation-Alert_updated-July-2020.pdf).

<sup>13</sup> See Emily Persico, *Recycling is Exacerbating the Plastic Waste Crisis*, PennFuture Blog (Jan. 4, 2021), <https://www.pennfuture.org/Blog-Item-Recycling-is-exacerbating-the-plastic-waste-crisis>.

<sup>14</sup> See Clare Goldsberry, *American Chemistry Council Applauds Virginia's Advanced Recycling Law*, *Plastics Today* (Mar. 30, 2021), <https://www.plasticstoday.com/advanced-recycling/american-chemistry-council-applauds-virginias-advanced-recycling-law>.

<sup>15</sup> See Alex Kamczyc, *Oklahoma Passes Legislation Expanding Plastics Recycling*, *Waste Today* (Apr. 20, 2021), <https://www.wastetodaymagazine.com/article/oklahoma-plastics-legislation/>.

<sup>16</sup> See Megan Smalley, *Arizona Governor Signs Advanced Recycling Bill* (Apr. 27, 2021), <https://www.wastetodaymagazine.com/article/arizona-governor-signs-advanced-recycling-bill/>.

<sup>17</sup> See American Chemistry Council, *Arkansas Is 13th State to Pass Advanced Recycling Legislation to Help End Plastic Waste* (May 4, 2021), <https://www.americanchemistry.com/chemistry-in-america/news-trends/press-release/2021/arkansas-is-13th-state-to-pass-advanced-recycling-legislation-to-help-end-plastic-waste>.

<sup>18</sup> See Clare Goldsberry, *Louisiana 14th State to Pass Legislation Supporting Advanced Recycling*, *Plastics Today* (July 2, 2021), <https://www.plasticstoday.com/advanced-recycling/louisiana-14th-state-pass-legislation-supporting-advanced-recycling>.

<sup>19</sup> See Megan Quinn, *Notable Chemical Recycling, EPR and Bottle Bill Updates Pass in State Legislatures*, *Waste Dive*, (Mar. 11, 2022), <https://www.wastedive.com/news/2022-state-policy-chemical-recycling-epr-bottle-bill/620243/>

<sup>20</sup> 86 Fed. Reg. 50296, 50302 (Sept. 8, 2021).





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byproducts to be burned somewhere else.<sup>1</sup> None of the plastics handled by these facilities is used to create new consumer products.<sup>2</sup>

Moreover, just like traditional waste incineration, “advanced recycling” facilities create significant environmental harm. These processes emit just as much carbon dioxide as waste incinerators.<sup>3</sup> Additionally, the air emissions from these facilities contains heavy metals like lead and mercury, as well as other toxics.<sup>4</sup> These toxics include polychlorinated dibenzodioxins (“dioxins”),<sup>5</sup> a toxic group of carcinogens that commonly result from plastics incineration,<sup>6</sup> as well as polychlorinated furans (“furans”), polychlorinated biphenyls (“PCBs”), hydrogen cyanide, carbon monoxide, nitrogen oxides, and sulfur dioxides.<sup>7</sup>

## II. “Advanced Recycling” Is Not Economically Viable.

Gasification, pyrolysis, and other high heat burning processes create an expensive fuel with little to no financial return. These technologies use as much as 87 times more energy than they produce.<sup>8</sup> This energy is almost always supplied by burning fossil fuels. The energy deficit, along with high building and operating costs, are the primary reasons why so many attempts at “advanced recycling” have ended in failure.<sup>9</sup> Moreover, melting down different types of plastics together produces a complex blend of residuals that need to be separated and purified for use, which is expensive and fails to produce a valuable fuel source. In fact, more than thirty-seven

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<sup>1</sup> Denise Patel, Global Alliance for Incinerator Alternatives, *All Talk and No Recycling: An Investigation of the U.S. “Chemical Recycling” Industry*, at 3 (2020), [https://www.no-burn.org/wp-content/uploads/All-Talk-and-No-Recycling\\_July-28.pdf](https://www.no-burn.org/wp-content/uploads/All-Talk-and-No-Recycling_July-28.pdf)

<sup>2</sup> *Id.*

<sup>3</sup> Andrew Rollinson, *Why Pyrolysis and ‘Plastic to Fuels’ Is Not a Solution to the Plastics Problem* (Dec. 4, 2018), <https://www.lowimpact.org/pyrolysis-not-solution-plastics-problem/>.

<sup>4</sup> David Azouly, *Plastic & Health: The Hidden Costs of a Plastic Planet*, at 47 (2019), <https://www.ciel.org/wp-content/uploads/2019/02/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>

<sup>5</sup> Rollinson, *supra* note 4.

<sup>6</sup> EPA, *Learn About Dioxin*, <https://www.epa.gov/dioxin/learn-about-dioxin>.

<sup>7</sup> See Andrew Rollinson & Jumoke Oladejo, *Chemical Recycling: Status, Sustainability, and Environmental Impacts* 23–27 (2020), [https://www.no-burn.org/wp-content/uploads/CR-Technical-Assessment\\_June-2020.pdf](https://www.no-burn.org/wp-content/uploads/CR-Technical-Assessment_June-2020.pdf); Neil Tangri & Monica Wilson, Global Alliance for Incinerator Alternatives, *Waste Gasification & Pyrolysis: High Risk, Low Yield Processes for Waste Management*, at 9 (2017); Natalia Kaminska-Pietrzak & Adam Smolinski, *Selected Environmental Aspects of Gasification and Co-Gasification of Various Types of Waste*, at 12 *Journal of Sustainable Mining* 6, 7–11 (2013), available at <https://www.sciencedirect.com/science/article/pii/S230039601530063X>.

<sup>8</sup> Rollinson, *supra* note 4.

<sup>9</sup> See Neil Tangri & Monica Wilson, Global Alliance for Incinerator Alternatives, *Waste Gasification & Pyrolysis: High Risk, Low Yield Processes for Waste Management* (2017), <https://www.no-burn.org/wp-content/uploads/Waste-Gasification-and-Pyrolysis-high-risk-low-yield-processes-march-2017.pdf>





For a thriving New England

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www.clf.org

April 1, 2022

The Honorable Howard Pearl  
Chair, House Environment and Agriculture Committee  
New Hampshire House of Representatives  
107 N. Maine St.  
Concord, NH 03303

**RE: SB 367 – An Act Relative to the Regulatory Status of Advanced Recycling and Manufacturing Facilities.**

Chairman Pearl and Honorable Committee Members:

Thank you for the opportunity to provide comments in opposition to Senate Bill 367, an Act Relative to the Regulatory Status of Advanced Recycling and Manufacturing Facilities.

Conservation Law Foundation (CLF) is a member-supported non-profit advocacy organization working to protect public health and the environment and build healthy communities in New Hampshire and throughout New England. Through its Zero Waste Project, CLF aims to improve solid waste management through source reduction, recycling, and composting.

SB 367 would exempt so-called “advanced recycling” facilities from laws and regulations that apply to solid waste and recycling facilities, including reporting requirements and municipal oversight. The bill would also exempt post-consumer plastics from the definition of “solid waste” if those plastics are used as a feedstock for any high-heat waste processing technology. The practical effect of this bill would be to bring unproven and polluting plastics incineration facilities to New Hampshire, while exempting these facilities from the permitting, siting, and oversight requirements that apply to all other solid waste facilities.

**I. “Advanced Recycling” Means Incineration, Not Recycling.**

“Advanced recycling”, also called “chemical recycling,” is a catch-all term that refers to processes that expose plastics to high temperatures (as high as 2,800 degrees Fahrenheit) in a limited oxygen environment to create synthetic fuels and waste byproducts. Industry proponents claim that these processes, such as gasification and pyrolysis, are not the same as traditional incineration. However, these claims are false. Every operational “advanced recycling” facility burns plastics, plastics-derived fuels, and plastics byproducts, or sends those fuels and



**Kirsten Koch**

**BIA Testimony on SB 367**

**House Environment and Agriculture Committee**

**April 5, 2022**

Mister Chair and Members of the House Environment and Agriculture Committee, my name is Kirsten Koch, and I am the Director of Public Policy for the Business and Industry Association (BIA), New Hampshire's statewide chamber of commerce and leading business advocate. BIA represents more than 400 members in a variety of industries. Member firms employ 89,000 people throughout the state, which represents one in seven jobs, and contribute \$4.5 billion annually to the state's economy.

I am here today to express BIA's support for Senate Bill 367, relative to the regulatory state of advanced recycling and manufacturing facilities. This bill furthers environmental sustainability and brings economic benefits to New Hampshire.

This bill furthers the state's solid waste management goals by preventing many traditionally hard-to-recycle plastics from going into New Hampshire landfills. Instead, advanced recycling facilities can manufacture these plastics into a variety of reusable materials. It is time to welcome manufacturers with this technology into New Hampshire to divert solid waste from landfills and begin developing a more robust recycling market.

Senate Bill 367 encourages advanced recycling facilities to come to New Hampshire for business, ultimately bringing more jobs to the local economy. This bill provides regulatory certainty for advanced recycling facilities. The main function of these facilities is to manufacture new materials, not to dispose of waste. New Hampshire should welcome sustainable business and regulate advanced recycling facilities as manufacturers.

BIA respectfully requests this committee to pass Senate Bill 367 because this bill would further sustainability efforts and increase economic opportunities for New Hampshire.

Thank you for your consideration of BIA's support for this legislation. I will gladly try to answer any questions from the committee.

Environmental Services about their authority. The Department was involved in the drafting of the amendment and has supported the bill in its amended form.

My goal is to pass this enabling legislation to help New Hampshire. It can help with our solid waste needs by diverting hard to recycle plastics from our landfills, it can help with recycling and reusing of plastics, and can help our economy by bringing in good manufacturing jobs in STEM fields. It is a win-win.

Thank you for your consideration of SB 367.



**Testimony of Senator Kevin Avard**

**SB 367 – relative to the regulatory status of advanced recycling and manufacturing facilities.**

**House Environment & Agriculture Committee**

**April 5, 2022**

For the record, I am Kevin Avard – State Senator from District 12. I appear before you to introduce SB 367, relative to the regulatory status of advanced recycling and manufacturing facilities. When this bill was brought to me, I was glad to prime sponsor it and I thank the bipartisan legislators for co-sponsoring it with me. This bill is about incentivizing private investment to come to New Hampshire and develop another tool for keeping plastic out of landfills – an advanced recycling facility.

There are others here who will speak to the specifics of the industry and how advanced recycling works. The goal of the bill is very simple - to establish a clear regulatory path so that this type of a recycling facility is treated as a manufacturing facility and not a solid waste facility. 18 other states have passed similar laws with the intent to attract private investment to their states that would bring good jobs – in STEM fields and construction, as well as another way to recycle hard to handle plastics. There are no such facilities in the Northeast. We should want this type of manufacturing in New Hampshire.

SB 367 passed the Senate unanimously on a bipartisan voice vote. We did amend the bill to address questions brought forward by the Department of



private companies are already manufacturing post-use plastics at a commercial scale into a versatile mix of valuable new products.

FPA believes that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of advanced recycling development is an important lever. Thus, FPA supports the goals of SB 367.

In advance, thank you for your consideration. If we can provide further information or answer any questions, please do not hesitate to contact me at 410-694-0800 or [SSchlaich@FlexPack.org](mailto:SSchlaich@FlexPack.org).

Respectfully,

*Sam Schlaich*

Sam H. Schlaich, J.D.

Government Affairs Counsel, FPA

out food containers and e-commerce delivery, which are increasingly important during this national emergency, are also heavily supported by the flexible packaging industry.

Thus, FPA and its members are particularly interested in solving the plastic pollution issue and increasing recycling of solid waste from packaging. We believe that SB 367 will help do just that. Flexible packaging is in a unique situation as it is one of the most environmentally sustainable packaging types, from a water and energy consumption, product to package ratio, transportation efficiency, and food waste and greenhouse gas emission reduction standpoint, but circularity options are limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging waste. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled through store drop-off programs, however end-markets are scarce. The other half can be used to generate new feedstock, whether through pyrolysis, gasification, or fuel blending, but again, if there are no end market for the product, these efforts will be stranded.

Developing end-of-life solutions for flexible packaging is a work in progress and FPA is partnering with other manufacturers, recyclers, retailers, waste management companies, brand owners, and other organizations to continue making strides toward total packaging recovery. Some examples include, The Recycling Partnership and the Materials Recovery for the Future or MRFF project; the Hefty® EnergyBag® Program; and the University of Florida's Advanced Recycling Program. All of these programs seek to increase infrastructure for the collection, sortation and ultimate processing of the valuable materials that make up flexible packaging, including plastic.

Advanced recycling technologies can process plastics that do not have strong end markets, thus enabling a more circular economy for plastics. In addition to benefiting the environment, advanced recycling provides important economic benefits. As the American Chemistry Council reports, more than \$7.5 billion in advanced recycling projects have been announced or are already operating in the United States, with the potential to divert 11.7 billion pounds of waste from landfills. And, while this technology may be new to New Hampshire, across the country,

Testimony in SUPPORT  
of  
Senate Bill 367  
in  
New Hampshire House Environment and Agriculture Committee  
on  
April, 5 2022

Dear Chair and Members of the Committee,

The Flexible Packaging Association (FPA) is pleased to **support SB 367**, which would provide regulatory certainty for advanced recycling processes and create a more circular economy for plastics in New Hampshire.

I am Sam Schlaich, Counsel, Government Affairs for FPA, which represents flexible packaging manufacturers and suppliers to the industry. In the U.S. Flexible packaging represents \$34.8 billion in annual sales in the U.S. and is the second largest, and fastest growing segment of the packaging industry. The industry employs approximately 80,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day – including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice; as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-

April 5, 2022  
Via electronic mail

TO: NH House of Representatives, Environment and Agriculture Committee  
RE: SB 367

Dear Committee Members,

I am a Registered Nurse who strives to protect public health and the environment, and I strongly oppose SB 367. This legislation is an attempt to fix social and political problems with inappropriate technology.

The City of Claremont, NH went down this road during the 1980s with a controversial waste incinerator that operated twenty-six years amid strong public opposition. When the incinerator closed in 2013, Claremont saw the end of a financial boondoggle that had damaged the City's reputation, infrastructure, and environment. Capital-intensive technology did not solve the waste problem. Unfortunately, the Department of Environmental Services and frequently the New Hampshire General Court were supporters of this debacle. The State of New Hampshire continues to show an unwillingness to support development of local, diversified, and publicly-owned programs for conservation, recycling, and composting. This has left New Hampshire with a failing resource-management infrastructure.

SB 367 creates what The Global Alliance for Incinerator Alternatives (GAIA) calls False Solutions to the Plastic Pollution Crisis. According to GAIA:

We have no more time or money to waste on dysfunctional and potentially dangerous techno fixes like chemical recycling. As we recover from the economic ravages of COVID-19, we must invest wisely in proven, common-sense solutions that will support public health and a safe environment (Chemical Recycling: Behind the Industry Hype).

The International Council of Nurses "strongly believes that nurses have a shared responsibility to sustain and protect the natural environment from depletion, pollution, degradation and destruction." I agree, and that is why I oppose SB 367. I urge the E&A Committee to do the same.

See also:

The recycling myth: A plastic waste solution littered with failure  
Nurses, climate change and health (International Council of Nurses Position Statement)  
ILSR Advises Hawaii to Avoid Solid Waste Combustion as a Waste Management Strategy  
(Existing emissions data on pyrolysis plants shows that air emissions from them can be comparable to, or even more polluting than, trash incinerators, which are dirtier than coal power plants by most measures and proven to be the most expensive and polluting way to manage waste.)

Sincerely,  
Katie Lajoie, RN  
429 Wheeler Rand Road  
Charlestown, NH 03603  
603-826-4803  
[jlje2316@gmail.com](mailto:jlje2316@gmail.com)

Page 2, lines 34-36: strike item (b) in its entirety

Reasoning: The bill as currently written includes the conversion of “recovered feedstock” in the definition of “advanced recycling” and defines “recovered feedstock” as a non-hazardous secondary material that is used as a fuel. That definition is covered by the language, “Materials for which the United States Environmental Protection Agency has made a non-waste determination pursuant to 40 C.F.R. 241.3(c)...” 40 C.F.R. 241.3 only deals with standards and procedures for identification of non-hazardous secondary materials that are solid waste when used as a fuel or ingredients in combustion units.”

**Conclusion**

AF&PA encourages the committee to avoid measures that might negatively impact the recycling of paper and paper-based packaging and distort the definition of “recycling.” We thank the Committee for your time and consideration on this important matter and look forward to continuing our work with the state of New Hampshire.

Please feel free to contact Abigail Sztejn, Director, Government Affairs at [abigail\\_sztejn@afandpa.org](mailto:abigail_sztejn@afandpa.org) for further information.

AF&PA supports many of the state’s efforts to decrease the volume of materials going to landfill. However, using a term so similar to “recycling” that also includes energy recovery technologies used to produce fuels or energy creates a risk they could be equated to or diminish the efforts of other industries to increase their recycling rates. If the paper industry does not advocate for the integrity of recycling, then our industry’s investment in mills that recycle paper and paper-based packaging – and our resulting high recycling rate – is devalued.

### **Potential Risk for Paper Recycling**

The paper recycling rate has grown over the decades, and remains consistently high, meeting or exceeding 63 percent since 2009.<sup>1</sup> In 2020, 65.7 percent of paper consumed in the United States was recycled. Technological innovations in product design and recycling processes are continuously allowing our industry to access and recycle more paper-based products.

AF&PA opposes energy recovery systems that might put burning recovered paper on par with recycling. The materials in SB 367 “are not limited to” the list and could include any other material sent to an advanced recycling facility. Based on this language, using thermochemical conversion processes like pyrolysis and gasification to convert paper for energy recovery is permitted, even though it would not be putting the recovered fiber to its best use as new paper and paper-based packaging products. AF&PA opposes government incentives or directives that divert commonly recycled paper away from reuse in other products.

### **Key Language Concerns**

There are a few points in the bill where amendments could allow AF&PA to withdraw our opposition. Specifically:

Section 1, Paragraph 1-a: strike “but are not limited to”

Reasoning: While the bill does not specifically cite fuels or fuel ingredients as the products made through the thermochemical conversion technologies identified as advanced recycling processes, it does say the definition of advanced recycling includes “but are not limited to” the products cited in the bill’s text. Without limiting language in the bill excluding fuels and fuel ingredients from the definition of advanced recycling, the “but are not limited to” language could allow an interpretation that fuels and fuel ingredients may be included in the definition.

Throughout entire bill: strike “basic hydrocarbon”

Reasoning: The specific exclusion of fuels and fuel ingredients from the definition of advanced recycling in the bill is necessary to address the possibility that products with multiple uses, like “basic hydrocarbons,” that are used for fuel or fuel ingredients are included in the definition of “advanced recycling.” The primary use of hydrocarbons is as a combustible fuel source, functioning as a component in gasoline, naphtha, etc.

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<sup>1</sup><https://www.paperrecycles.org/media/news/2020/05/12/u.s.-paper-industry-achieves-consistently-high-recycling-rate>



**American  
Forest & Paper  
Association**

April 5, 2022

House Committee on Environment and Agriculture  
New Hampshire General Court  
Concord, NH 03301

**RE: Letter of Opposition on Senate Bill 367 – An Act relative to the regulatory status of advanced recycling and manufacturing facilities**

On behalf of the American Forest & Paper Association (AF&PA), we appreciate the opportunity to share our perspective on legislation under consideration by the Committee: Senate Bill 367, which establishes definitions for advanced recycling and manufacturing facilities.

AF&PA serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — *Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future*. The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 people. The industry meets a payroll of approximately \$60 billion annually and is among the top 10 manufacturing sector employers in 45 states.

In New Hampshire, the forest products industry employs over 4,000 individuals, with an annual payroll of nearly \$204 million and manufacturing output exceeding \$845 million annually.

AF&PA must respectfully oppose the bill as currently written because it does not exclude the conversion of post-use plastics and recovered feedstocks into fuel or fuel ingredients in the definition of “advanced recycling.” The result is that the definition inappropriately combines chemical recycling and energy recovery under one definition. This distinction is important because recycling and energy production are separate processes in the U.S. EPA waste hierarchy; facilities that recycle and facilities that produce energy are often governed (e.g.- taxed and permitted) differently under state and federal law; and changing the definition of recycling for one material can have unintended impacts on other recyclable materials.

**Potential Harm to Recycling**

Converting post-use products into fuel or energy and calling it “advanced recycling” poses significant potential unintended consequences. Many national brands have recycling goals for their packaging. It is unclear if those brands could now count energy recovery through advanced recycling processes toward their goals, creating confusion and data distortions. Similarly, if the EPA were to say 75 percent of packaging must be recycled, it would raise the question whether converting post-use products that are uneconomical to recycle to fuel or energy then becomes recycling.

The state has one biomass gasification facility in eastern Connecticut. Its establishment was controversial and the permitting process resulted in a contested case with significant public involvement. As a result of that process, a permit was issued to the applicant with carefully tailored conditions to minimize the impact of its operation on the environmental and local community. While DEEP has had many meetings with potential pyrolysis developers over past decades, no application has been submitted. Exemption from regulatory oversight of advanced recycling facilities may result in the health of Connecticut's residents being placed at risk. It is important to note that should this bill establish a category of facilities that are exempt from solid waste regulation, *it effectively removes the opportunity for public participation* during a time when potentially impacted communities are looking for greater transparency. Exempting advanced recycling facilities from 22a-208(a) will eliminate the public process for a facility that would receive solid waste and, through its activities, potentially generate air pollutants. Additionally, it will eliminate the identification of such facilities as affecting facilities pursuant to CGS sec 22a-20a – the state's environmental justice statute – which the legislature recently strengthened. If exempt from such regulatory programs, the potential siting of such facilities in environmental justice communities would disenfranchise those communities and eliminate meaningful community engagement in the process.

In summary, DEEP supports the development of advanced recycling facilities in Connecticut, however, DEEP does not support their exemption from solid waste regulatory oversight. Thank you for the opportunity to present the testimony on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Harrison Nantz at [Harrison.Nantz@ct.gov](mailto:Harrison.Nantz@ct.gov).



Public Hearing – March 15, 2022  
Commerce Committee

Testimony Submitted by Commissioner Katie S. Dykes

### **Senate Bill 352 – An Act Authorizing Certain Advanced Recycling Industry Facilities**

Thank you for the opportunity to present testimony regarding Senate Bill No. 352 – An Act Authorizing Certain Advanced Recycling Industry Facilities. The purpose of this bill is to allow for the development of chemical processing of plastics that are both mandated by state law to be recycled and plastics that are not mandated but for which markets already exist. **DEEP supports the development of advanced recycling facilities in Connecticut, however, DEEP does not support their exemption from solid waste regulatory oversight.**

The bill would establish definitions for potentially controversial activities as well as establish exemptions from solid waste regulatory oversight (including permitting and reporting to municipalities, DEEP and the legislature) for facilities that propose to receive, process and recycle solid waste plastics. The proposed bill would establish new definitions for a class of recycling operations that will use solid waste to generate materials such as chemicals, liquid fuels and other products through complex technologies specifically pyrolysis, gasification and other complex physical and chemical methodologies.

US EPA defines gasification and pyrolysis as forms of incineration (40 CFR 60-51a) and is currently considering the development of a regulatory program for chemical recycling.<sup>1,2</sup> Advanced recycling is chemical recycling and is the conversion of plastics into chemicals and fuels. Such processes are waste conversion technologies, are regulated by DEEP and such technologies are not considered recycling if the output is a fuel. Mechanical plastic to plastic recycling, although well-established has not resulted in high recycling rates or circularity.

The legislature in 2017 established the definition of a waste conversion facility as a location where thermal, chemical or biological processes are used to convert solid waste into fuel, gas and other products. These are the specific operations that the bill identifies and seeks to exempt from the protective and well-established regulatory framework. In 2009 the legislature established the authority for DEEP to issue individual Beneficial Used Determinations specifically for facilities that use solid waste in lieu of raw materials in a manufacturing process. The regulatory structure for the proposed advanced recycling facilities is already in place. DEEP recommends that these facilities be established in accordance with the regulatory framework in place.

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2021-09-08/pdf/2021-19390.pdf>

<sup>2</sup> <https://resource-recycling.com/plastics/2021/09/29/feds-will-consider-regulating-chemical-recycling-sector/#:~:text=The%20U.S.%20EPA%20is%20exploring,in%20these%20chemical%20recycling%20technologies.>



These reporting requirements are essential to understanding whether a facility is recycling waste or creating a fuel for incineration. Without this reporting, the state will have no authority to evaluate the quantity of plastic waste accepted, the source of the plastic waste, the end products the plastic waste is converted into, and whether that material was used to create new plastic products.

**VI. Conclusion – New Hampshire Should Use Caution and Retain the Authority to Regulate Advanced Recycling Facilities under Its Solid Waste Laws.**

If the American Chemistry Council feel assured that advanced recycling facilities can help reduce plastic waste, they should be willing to have these facilities regulated in the same manner as all other solid waste facilities in New Hampshire. The industry's desire to be exempted from New Hampshire's solid waste laws raises concerns about the safety and benefits of this new and unproven technology. To fully understand the role these facilities will have on solid waste management, they must be subject to solid waste regulation, especially state laws intended to ensure facilities provide a substantial public benefit and state rules related to annual reporting. The fact that industry is seeking special treatment and exemption from common sense regulation (as they have done unsuccessfully elsewhere in the northeast) is indicative of the fact that these facilities should be regulated, not deregulated.

CLF strongly urges the committee to reject the deregulation of this unproven technology and vote *inexpedient to legislate*. Thank you for your time and consideration of these comments.

Respectfully submitted,

Peter Blair  
Staff Attorney, Zero Waste Project  
Conservation Law Foundation  
Email – [Pblair@clf.org](mailto:Pblair@clf.org)

applicant.”<sup>39</sup> This requirement is crucial for evaluating whether a proposal for an advanced recycling facility is likely to achieve commercial viability. As mentioned above, Brightmark’s failure to achieve commercial viability at its pyrolysis facility in Indiana was determinative in its failed proposal to build a new facility in Georgia.

#### Public Benefit Determination

Additionally, deregulation would also exempt all advanced recycling facilities from the public benefit determination process required for solid waste facilities. When adopting the public benefit requirement, the legislature intended to ensure that solid waste facilities will provide a benefit to the citizens of New Hampshire by providing solid waste management options which “meet the capacity needs of the state while minimizing adverse environmental, public health, and long-term economic impacts.”<sup>40</sup>

To that end, the Department must ensure that a proposed solid waste facility will assist the state in achieving the implementation of the state’s solid waste management hierarchy and goals, including the goals and requirements of the state’s solid waste management plan.<sup>41</sup> As part of the public benefit determination, the Department is required to consider the concerns of citizens and affected persons, and the economic viability of the proposed facility.<sup>42</sup> The public benefit determination also requires that the Department considers the types of waste generated in New Hampshire, and the proposed facility’s ability to manage this waste in accordance with the state’s solid waste management hierarchy.<sup>43</sup>

Exempting a range of new and unproven technologies from this regulatory requirement would not only limit public participation but will also erode any authority to evaluate whether the facility will help New Hampshire achieve its solid waste management reduction goals by recycling plastic waste that otherwise would have been landfilled.

#### Reporting Requirements for Recycled Materials

New Hampshire solid waste management regulations require all active solid waste facilities to provide an annual report that includes:

- The quantity in tons, type, and source of all waste received by the facility;
- The destination of all waste received by the facility;
- The quantity, type, and destination of all waste generated by the facility; and
- The quantity of waste stored at the facility.<sup>44</sup>

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<sup>39</sup> RSA 149-M:9, III.

<sup>40</sup> RSA 149-M:11, II.

<sup>41</sup> RSA 149-M:11, III.

<sup>42</sup> RSA 149-M:11, IV.

<sup>43</sup> RSA 149-M:11, V(b).

<sup>44</sup> Env-Sw 1105.13.

be recycled to create new products as opposed to generating fuel. Ultimately, the inclusion of advanced recycling as part of the extended producer responsibility for packaging program resulted in the Governor removing the proposal from the budget.<sup>36</sup> This came after many voices, including the solid waste advisory boards for the Bronx, Brooklyn, Manhattan, and Queens raised concerns over how advanced recycling is unproven and its inclusion in the proposal would promote greenwashing efforts that undermine real recycling efforts.<sup>37</sup>

**V. The Department Should Regulate Advanced Recycling Under the Solid Waste Laws and Regulations to Ensure a Proposed Facility Benefits New Hampshire.**

New Hampshire should thoroughly evaluate this technology to understand its impacts on public health, the environment, and the state’s solid waste management system. SB 367 would negate the ability to do this by exempting these facilities from commonsense regulation. In practical effect, SB 367 would exempt a wide array of unproven technology from the permitting, siting, oversight, reporting, and public comment requirements that apply to all other solid waste facilities in New Hampshire.

New Hampshire’s solid waste management laws and regulations give the Department of Environmental Services (the “Department”) the necessary authority to ensure that any proposal to construct and operate an advanced recycling facility will not result in harm to public health or the environment. This includes providing assurances over the commercial viability of a proposed solid waste facility, requirements that the facility provide a substantial public benefit to the state, as well as reporting requirements that ensure the facility is recycling the waste it receives. Exempting all advanced recycling facilities from solid waste regulation would limit the Department’s ability to:

- (1) Determine whether a proposed facility is likely to achieve commercial viability;
- (2) Determine whether a proposed facility provide a substantial public benefit to the residents of New Hampshire; and
- (3) Monitor the amount of plastic waste going to an advanced recycling facility, and whether that plastic was recycled or not.

**Commercial Viability of the Proposed Facility**

New Hampshire law requires a permit for the construction and operation of any solid waste facility.<sup>38</sup> When submitting a permit application, the applicant must include information related to the “performance history of the applicant and of its officers and directors relative to the operation, financial security, and ownership of all facilities owned or operated by the

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<sup>36</sup> Megan Quinn, *EPR Legislation Not Included in Final New York State Budget Despite Governor’s Support*, Waste Dive. (April 11, 2022). <https://www.wastedive.com/news/epr-legislation-final-new-york-budget-hochul/621875/>

<sup>37</sup> *Id.*

<sup>38</sup> RSA 149-M:9, I.

- 2022 Legislative Session – House Bills 8089 and 6675, and Senate Bills 2539 and 2788.

### Connecticut

Senate Bill 352 was introduced in Connecticut this session seeking to exempt advanced recycling technologies from solid waste regulation. The bill received a public hearing and is expected to die in committee.

Importantly, the Connecticut Department of Energy and Environmental Protection (“DEEP”) opposed the bill.<sup>28</sup> DEEP argued that advanced recycling facilities should be regulated in accordance with the state’s existing solid waste regulatory framework.<sup>29</sup> DEEP noted that exempting advanced recycling facilities from solid waste regulation would “effectively remove the opportunity for public participation during a time when potentially impacted communities are looking for greater transparency.”<sup>30</sup> Additionally, DEEP pointed to the fact that Connecticut has one biomass gasification facility and the permitting process for that facility resulted in the need for a “carefully tailored” permit with conditions designed to “minimize the impact of its operation on the environment and local community.”<sup>31</sup> Deregulation of these facilities would remove that regulatory safeguard for future projects.

### New Jersey

A deregulation bill, Assembly Bill 5803, was introduced in New Jersey in 2021.<sup>32</sup> Although the bill passed the Assembly, it was rejected in the Senate after significant pushback from concerned citizens who felt the technology was unsafe and did not constitute actual recycling.<sup>33</sup> An identical bill, Assembly Bill 1759, was introduced again this year.<sup>34</sup> The bill has not had a public hearing in either the Assembly or the Senate.

### New York

Governor Kathy Hochul included an extended producer responsibility for packaging proposal as part of the fiscal budget.<sup>35</sup> However, the proposal explicitly allowed advanced recycling processes to constitute recycling under the program without any assurances that the plastic would

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<sup>28</sup> Commissioner Dykes, Testimony before the Connecticut Commerce Committee Related to Senate Bill 352 – An Act Authorizing Certain Advanced Recycling Industry Facilities, (March 15, 2022). <https://www.cga.ct.gov/2022/cedata/tmy/2022SB-00352-R000315-Dykes,%20Katie,%20Commissioner-DEEP-Oppose-TMY.PDF>

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> New Jersey Assembly Bill 5803 (2021). <https://www.njleg.state.nj.us/bill-search/2020/A5803>

<sup>33</sup> Andrew Lewis, *N.J. Chemical Recycling Bill Sets Stage for Industry’s Battle with Environmentalists*, NPR. (June 22, 2021). <https://whyy.org/articles/n-j-chemical-recycling-bill-sets-stage-for-industrys-battle-with-environmentalists/>

<sup>34</sup> New Jersey Assembly Bill 1759 (2022) <https://www.njleg.state.nj.us/bill-search/2022/A1759>

<sup>35</sup> Megan Quinn, *New York Gov. Hochul’s Budget Proposal Calls for Packaging EPR by 2026*, Waste Dive. (Jan 21, 2022). <https://www.wastedive.com/news/new-york-governor-hochul-epr-pfas-packaging/617488/>

Plastics often contain heavy metals, which are not destroyed during high-heat exposure but instead are transferred to one of the outputs: gas, liquid fuel, or char. In a study of mixed plastic pyrolysis, the product oil was found to contain antimony, bromine, zinc, calcium, chlorine, and sulfur, while the gas contained chlorine and bromine, with largest fractions of these chemicals also found in the char.<sup>22</sup> Another study of plastic pyrolysis found that the char was contaminated with heavy metals such as cadmium, lead, zinc, copper, mercury, and arsenic.<sup>23</sup> Attempts to remove the metals were ineffective and also created an additional liquid waste stream that had significant toxicity due to the presence of acquired compounds.<sup>24</sup>

Plastic-derived fuels can contain higher concentrations of heavy metals and other toxics that traditional fossil fuels such as diesel fuel.<sup>25</sup> The content of lead in gas produced from processing plastic is significantly higher than traditional fuels.<sup>26</sup> Additionally, studies have indicated that emissions from the combustion of plastic-derived fuel contains significantly more mercury than traditional fuels.<sup>27</sup>

#### **IV. Efforts to Deregulate Advanced Recycling in the Northeast Have Failed.**

As mentioned during both the public hearing and the subcommittee working group, SB 367 is part of a larger lobbying effort to deregulate advanced recycling. Groups, including the American Chemistry Council, have lobbied for identical bills across the country. Several deregulation bills have been introduced in states across the Northeast, including Rhode Island, Connecticut, New Jersey, and New York. Importantly, none of them have passed. New Hampshire should follow the cautious approach of its neighbors and refuse to deregulate this unproven technology.

##### Rhode Island

The American Chemistry Council and others have pushed for deregulation bills in three of the last four legislative sessions in Rhode Island. Each attempt has result in failure. Below is a list of the bill numbers for each of the sessions they were introduced.

- 2019 Legislative Session – House Bill 5448 and Senate Bill 408
- 2020 Legislative Session – No bills introduced
- 2021 Legislative Session – House Bill 5446 and Senate Bill 254

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<sup>22</sup> Miskolczi, N., Ateş, F., Borosodi, N. 2013. Comparison of real waste (MSW and MPW) pyrolysis in batch reactor over different catalysts. Part II: Contaminants, char, and pyrolysis oil properties. *Bioresource Technology*, 144, 370-379.

<sup>23</sup> Bernardo, M., Lapa, N., Gonçalves, M., Bardosa, R., Mendes, B., Pinto, F., Gulyurtlu, L. 2010. Toxicity of char residues produced in the co-pyrolysis of different wastes. *Waste Management*, 30, pp. 628- 635.

<sup>24</sup> *Id.*

<sup>25</sup> Kaminska-Pietrzak, N., Smolinki, A., 2013. Selected environmental aspects of gasification and co-gasification of various types of waste. *J. Sust. Min.* Vol 12, No 4 pp. 6-13.

<sup>26</sup>

<sup>27</sup>

conditioning and clean-up.<sup>15</sup> When these energy inputs are included advanced recycling technologies use 5 to 87 times more energy than they produce.<sup>16</sup>

Because these energy-intensive processes rely on fossil fuels, they contribute significantly to climate change. Moreover, when products produced by pyrolysis are burned, equivalent amounts of greenhouse gasses are emitted as if the plastic had been burned directly.<sup>17</sup> The energy deficit, along with high building and operating costs, and a lack of marketable fuel are the primary reasons why so many attempts at “advanced recycling” have ended in failure.<sup>18</sup>

### **III. Advanced Recycling Results in Serious Environmental Concerns Including Air Pollution and Management of Hazardous Byproducts Such as Char.**

Although plastics primarily consist of hydrogen and carbon, they also include additives such as antioxidants, flame retardants, plasticizers, lubricants, and heat stabilizers. These additives include toxics like bisphenol-A (“BPA”), cadmium, benzene, brominated compounds, phthalates, lead, tin, antimony, per-and-polyfluoroalkyl substances (“PFAS”) and volatile organic compounds (“VOCs”). Moreover, plastic can also acquire toxic contaminants from its surroundings during the production process and post-production use.<sup>19</sup>

While the hazards and toxicity associated with advanced recycling is currently under-reported and inadequately assessed, there is still significant information highlighting environmental concerns associated with these processes.<sup>20</sup> Using gasification and pyrolysis to break-down plastic waste creates phthalates, BPA, polybrominated diphenyl ethers, toxic brominated compounds and PAHs, many of which are mutagens, carcinogens, and disruptive to respiratory or neurological systems.<sup>21</sup>

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<sup>15</sup> *Id.*

<sup>16</sup> Andrew Rollinson, Why Pyrolysis and ‘Plastic to Fuels’ Is Not a Solution to the Plastics Problem (Dec. 4, 2018), <https://www.lowimpact.org/pyrolysis-not-solution-plastics-problem/>.

<sup>17</sup> Zero Waste Europe, Understanding the Environmental impacts of Chemical Recycling, (Dec. 2020). [https://zerowasteurope.eu/wp-content/uploads/2020/12/zwe\\_jointpaper\\_UnderstandingEnvironmentalImpactsofCR\\_en.pdf](https://zerowasteurope.eu/wp-content/uploads/2020/12/zwe_jointpaper_UnderstandingEnvironmentalImpactsofCR_en.pdf)

<sup>18</sup> See Neil Tangri & Monica Wilson, Global Alliance for Incinerator Alternatives, Waste Gasification & Pyrolysis: High Risk, Low Yield Processes for Waste Management (2017), <https://www.no-burn.org/wp-content/uploads/Waste-Gasification-and-Pyrolysis-high-risk-low-yield-processes-march-2017.pdf>

<sup>19</sup> Rodrigues, M.O., Abrantes, N., Gonçalves, F.J.M., Nogueira, H., Marques, J.C., Gonçalves, F.J.M. 2019. Impacts of plastic products used in daily life on the environment and human health: What is known? *Environmental Toxicology and Pharmacology*, 72, 103239.

<sup>20</sup> Rollinson, A.N., Oladejo, J.M. 2019. ‘Patented blunderings’, efficiency awareness, and self-sustainability claims in the pyrolysis energy from waste sector. *Resources, Conservation and Recycling*, 141, pp. 233- 242.

<sup>21</sup> Verma, R., Vinoda, K.S., Papireddy, M., Gowda, A.N.S. 2016. Toxic pollutants from plastic waste - a review. *Procedia Environmental Sciences*, 35, pp. 701-708.

The overwhelming majority of advanced recycling facilities use an energy intensive process to simply create a low-quality fuel product that has little to no market. On April 11, 2022, Brightmark abandoned plans to build the largest “advanced recycling” facility in the world in Georgia.<sup>5</sup> The proposal would have been funded primarily by \$500 million in government bonds.<sup>6</sup> Brightmark pledged that its “state-of-the-art” and “proprietary plastic renewal process” could sustainably recycle all types of plastic by converting it into waxes, fuel, and new plastic feedstocks.<sup>7</sup> To get local approval for the facility, Brightmark was required to provide evidence that its existing facility in Ashley, Indiana, which used the same technology, was able to find a market for the material it produced.<sup>8</sup> The company failed to meet the deadline for providing this information because it was unable to create a marketable product.<sup>9</sup> As a result, the project was terminated.

#### Reuters Analysis of Advanced Recycling Facilities

Brightmark’s failure is not an aberration. Renewlogy developed a pyrolysis facility in Salt Lake City, Utah, to convert hard-to-recycle plastics waste such as plastic bags or takeout containers into a diesel fuel.<sup>10</sup> Within a year, the facility failed.<sup>11</sup> A 2021, Reuters investigative study examined 30 projects by two-dozen companies across three continents.<sup>12</sup> The investigation found that few are operating at a modest scale, more have closed, and more than half are years behind commercial plans with little evidence of becoming operational.<sup>13</sup>

## **II. Advanced Recycling Requires More Energy Than It Produces.**

As explained above, advanced recycling technologies primarily reprocess plastics waste into a fuel which is then burned, and rarely used to create new plastics. This process requires a greater energy input than can be obtained by burning the resulting fuel to generate energy.<sup>14</sup>

Claims that pyrolysis and other advanced recycling technologies can provide a net-positive energy benefit fail to account for the large amounts of auxiliary energy necessary for pre-treatment (sorting, cleaning, and shredding the plastics waste) and post-treatment product

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<sup>5</sup> Liz Fabian, *Macon-Bibb Industrial Authority Ends Talks on Plastic Recycling Plant*, Georgia Public Broadcasting. (April 11, 2022). <https://www.gpb.org/news/2022/04/11/macon-bibb-industrial-authority-ends-talks-on-plastics-recycling-plant>

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Joe Brock, et al, *The Recycling Myth: Big Oil’s Solution for Plastic Waste Littered With Failure*, Reuters. (July 29, 2021). <https://www.reuters.com/investigates/special-report/environment-plastic-oil-recycling/>

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Baytekin, B., Baytekin, H.T., Grzybowski, B.A. 2013. Retrieving and converting energy from polymers: deployable technologies and emerging concepts. *Energy and Environmental Science*, 6, pp. 3467- 3482.



I will be in attendance at the upcoming subcommittee working group on April 19, 2022 and will be happy to expand upon these comments and answer any additional questions the committee has.

**I. Advanced Recycling Does Not Constitute Recycling. Plastic Waste Is Processed and Converted into a Fuel Which Has Little Economic Value.**

Advanced recycling technologies apply high heat to plastic waste inside an oxygen-depleted chamber to break down the plastic into hydrocarbons and a wide variety of waste byproducts. Some of the resulting hydrocarbons polymers can, at least in theory, be repolymerized into new plastic products. However, this is not typically what happens. Instead, the hydrocarbons and waste byproducts are condensed and burnt as a fuel. Producing fuel derived from plastic waste is not recycling, it is a two-step incineration process.<sup>1</sup>

There are only a handful of operational advanced recycling facilities in the country. Deregulation bills like SB 367, shield many of these facilities from solid waste reporting requirements and therefore there is little publicly available information about the feedstock used and byproducts generated at these facilities. The information that is available shows that these facilities, at best, provide an expensive and commercially unviable means of converting plastics waste into a polluting fuel that has little to no market value.

Agilyx – Pyrolysis Facility in Oregon

The petrochemical industry often points to Agilyx, a polystyrene pyrolysis plant in Tigard, Oregon, as the supposed gold standard of commercial scale advanced recycling. Agilyx uses pyrolysis to break down polystyrene (more commonly known as Styrofoam) into styrene. Most of this styrene is shipped around the country and burned. Since 2018, Agilyx has shipped 322,739 pounds of styrene to be burned elsewhere.<sup>2</sup> Moreover, Agilyx produces a significant amount of hazardous waste when creating styrene from polystyrene. According to Resource Conservation and Recovery Act (“RCRA”) data from the U.S. Environmental Protection Agency, in 2019 Agilyx produced more than 500,000 pounds of hazardous waste including benzene, lead, barium, cadmium, chromium, and vinyl chloride.<sup>3</sup> These chemicals, most of which are disposed of through incineration, carry a wide array of health risks.<sup>4</sup>

Brightmark Energy Pyrolysis Facilities

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<sup>1</sup> See, Env-Sw 104.21. Recycling excludes the redistribution of recyclable materials for any purpose constituting disposal or incineration.

<sup>2</sup> Veena Singla, *Recycling Lies: Chemical Recycling of Plastic is Just Greenwashing Incineration*, NRDC, p. 4. (Feb. 2022). <https://www.nrdc.org/sites/default/files/chemical-recycling-greenwashing-incineration-ib.pdf>

<sup>3</sup> Veena Singla, *Chemical Recycling: A Summer of Disillusionment*, NRDC. (Dec. 21, 2021). <https://www.nrdc.org/experts/veena-singla/chemical-recycling-summer-disillusionment>

<sup>4</sup> *Id.*



For a thriving New England

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April 15, 2022

The Honorable Howard Pearl  
Chair, House Environment and Agriculture Committee  
New Hampshire House of Representatives  
107 N. Main St.  
Concord, NH 03303

**RE: SB 367 – An Act Relative to the Regulatory Status of Advanced Recycling and Manufacturing Facilities.**

Dear Chairman Pearl and Honorable Committee Members:

Thank you for the opportunity to provide additional information regarding Senate Bill 367, an Act Relative to the Regulatory Status of Advanced Recycling and Manufacturing Facilities. Conservation Law Foundation (“CLF”) appreciates the diligence of the House Environment and Agriculture Committee in assessing this bill. **CLF opposes this bill.**

During Tuesday’s working group, members of the subcommittee asked several important questions about advanced recycling technologies, how these new facilities operate, how they should be regulated, and the environmental concerns associated with processing plastic waste through pyrolysis and gasification. These questions underscore the need to scrutinize and tightly regulate advanced recycling facilities instead of exempting this technology from solid waste regulation. Ultimately, if the technology is as effective and innovative as its proponents claim, then they should have no issues with ensuring any proposed facility complies with the state’s solid waste management laws which are designed to protect public health and the environment, while providing necessary oversight authority to monitor whether waste is being recycled.

I acknowledge that these comments are long, but the information included is directly related to the questions the subcommittee asked during the working group meeting on April 12, 2022. To that end, CLF felt it was critical to provide thoroughly-sourced answers to the following questions:

- (1) What is the status of advanced recycling facilities in the United States? Where are these facilities and how are they operating?**
- (2) How much energy is needed to run an advanced recycling facility? Are they commercially viable?**
- (3) What is the status of efforts to deregulate advanced recycling in the Northeast?**
- (4) What are the concerns with not having advanced recycling regulated as a solid waste facility?**

**Heather Goley**

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**From:** judi lindsey <judilindsey@comcast.net>  
**Sent:** Monday, April 4, 2022 6:36 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** Oppose SB 367

Please oppose SB 367.

This bill would exempt post-consumer plastic waste from being considered 'solid waste.' Incinerating plastic will poison our air and soil!

Thank you for your support of HB 1454 and HB 1420.

Sincerely,

Judi Lindsey  
822 North Road  
Candia, NH

magnet for the region's trash? Yes, there is a problem of too much plastic. But we don't solve it with more carbon- and toxin-emitting incinerators.

St. Gobain considered locating in Vermont, but instead chose New Hampshire, because we are lax on regulation. So now we are dealing with costly PFAS problems. Will we make the same mistake, in allowing "NH Naturally" to become "naturally dump it in NH"? I urge you to vote SB 367 as Inexpedient to Legislate.

Thank you for your consideration.

Sincerely,

Susan Richman

16 Cowell Drive

Durham, NH 03824

603-868-2758 susan7richman@gmail.com

Sent from Mail for Windows

## Heather Goley

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**From:** Susan Richman <susan7richman@gmail.com>  
**Sent:** Monday, April 4, 2022 10:31 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** In opposition to SB 367

Dear Chairman Pearl and members of the House Committee on Environment and Agriculture,

Thank you for accepting this written testimony in opposition to SB 367, relative to the regulatory status of advanced recycling and manufacturing facilities.

The proposed “Advanced Recycling” facilities are dependent on three fictions:

1. The post-consumer plastic waste the facilities would be treating would be exempted from being considered “solid waste”;
2. The facilities where this plastic would be treated would be exempt from solid waste regulations;
3. The high heat process of breaking down the plastics would be classified as “manufacturing.”

It seems that “Advanced Recycling” can only be justified if:

1. The English language is twisted to mean its opposite;
2. The companies proposing these facilities are granted immunity from the regulations that have been put in place for public safety.

In an article from July 29, 2021, Reuters notes:

In addition to consuming large amounts of energy, “pyrolysis can generate toxic waste, such as dioxins,” said Hideshige Takada, a geochemist and professor at the Tokyo University of Agriculture and Technology who has studied pollutants in waste for decades.

Nor has pyrolysis proven capable of transforming unsorted garbage into high-quality fuel and clean plastic resin, says Susannah Scott, a chemistry professor at the University of California, Santa Barbara, who receives funding from the plastics industry to perform recycling research.

<https://www.reuters.com/investigates/special-report/environment-plastic-oil-recycling/> July 29, 2021

Reuters also noted this process has not yet been commercially viable.

Connecticut, Massachusetts and Rhode Island have rejected such plans – so the chemical industry has come to NH as the state with the least regulation. Will New Hampshire be the

## Heather Goley

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**From:** davholt@aol.com  
**Sent:** Tuesday, April 5, 2022 10:40 AM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** I oppose SB 367

I erroneously signed in in support of this bill, but I am in fact opposed to SB 367

## Heather Goley

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**From:** Jodi Grimbilas <jodi@jgstrategies.com>  
**Sent:** Tuesday, April 5, 2022 6:37 PM  
**To:** ~House Environment and Agriculture Committee  
**Cc:** Gorman, Margaret  
**Subject:** Follow up on SB 367 - advanced recycling

Good evening Honorable Members of the House Environment & Agriculture Committee,

My name is Jodi Grimbilas and I represent the American Chemistry Council. I was at the hearing today on SB 367. As a follow up to the testimony given by Margaret Gorman of ACC, I have included a link to a short video spotlighting the work of advanced recycling by a member company called Braven Environmental. I hope this is helpful to you as you consider SB 367. <https://www.youtube.com/watch?v=4W1CZMGRzt8>

Please let me know if you have any difficulty viewing the video. Also, we plan to bring additional subject matter experts to the work session on SB 367. If you have questions you would like to send to me in advance – feel free to contact me at your convenience.

Thank you for your consideration and have a nice evening!

Jodi

***Jodi Grimbilas, President***  
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Mobile | 206-550-3747  
Follow Your Breath Yoga



## **Heather Goley**

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**From:** Stephanie Weiner <sjweiner03@hotmail.com>  
**Sent:** Friday, April 8, 2022 8:37 AM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** Stop NH from becoming the region's plastic-burning capital

Dear House Environment and Agriculture Committee members,

As a concerned resident, I'm urging you to keep dangerous plastic-burning facilities out of New Hampshire.

New Hampshire has become New England's dumping ground for waste. Currently, millions of tons of trash are hauled in from out-of-state to be landfilled in New Hampshire every year. And now, we could also become the region's plastic-burning capital if SB 367 is passed. But you can stop this from happening!

As the House Environment and Agriculture Committee, you have a duty to do what's right for the health of our communities and environment – not corporate wallets. That's why I'm asking you to stop SB 367 in its tracks.

If passed, SB 367 will exempt high-heat trash-burning technologies from being regulated as solid waste facilities. This makes it easier for companies to come in and build so-called "advanced recycling" facilities. "Advanced recycling" is a term plastic and oil companies use to greenwash dangerous plastic-burning technology. And all so they can continue producing as much plastic as possible, while pretending to protect our environment. In reality, their objective is to increase corporate profits. These facilities do not recycle plastic. They burn it or turn it into fuel to be burned somewhere else.

Despite the known hazards, industry groups like the American Chemistry Council are pushing for similar laws across the U.S. In fact, industry lobbied for similar bills in Rhode Island and Connecticut last year – and failed. But in the states where these efforts succeed, high-heat waste burning facilities soon follow. And often in historically marginalized and disenfranchised areas – at the expense of the environment, climate, and public health. As a resident of the beautiful and rural north country, I am concerned my region will be most adversely affected by the siting of such a facility, which will negatively impact my community, our region's tourism, not to the mention the respiratory health of my family and friends.

What's more, these facilities often fail. More than thirty-seven "advanced recycling" facilities have been proposed since the early 2000s. Only three are operational.

By allowing SB 367 to pass, New Hampshire will not only open the door to these toxic facilities, but will also become the recipient of thousands of tons of plastic waste from all New England.

I'm asking that you protect our communities and environment by saying no to SB 367.

Thank you,  
Stephanie Weiner  
Lancaster, NH

## Heather Goley

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**From:** Sheryl Liberman <saml54@comcast.net>  
**Sent:** Monday, April 11, 2022 9:22 AM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** SB 367

Dear Committee Members,

I oppose SB 367. I am concerned about the possibility of carbon emissions through any incineration process, endangering the health and welfare of NH residents.

Sheryl Liberman,

Merrimack, NH

## Heather Goley

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**From:** Elizabeth Corell <elizabeth.j.corell@gmail.com>  
**Sent:** Monday, April 11, 2022 3:22 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** SB 367

I mistakenly recorded support while I in fact oppose SB 367 because of the potential for greatly increased levels of pollutants through incineration.

Elizabeth Corell,  
Concord

## Heather Goley

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**From:** jwardnh@comcast.net  
**Sent:** Tuesday, April 12, 2022 3:07 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** re: OPPOSE SB 367, A Sham Bill purporting to reduce waste when it actually unnecessarily increases NH's waste load so that private companies can reap more profit.

To members of the House Environment and Agriculture Committee:

Some years ago Hopkinton was faced with the prospect of letting a private company, BioEnergy, burn construction and demolition debris. This would have been a good thing for that company's bottom line, but a very bad thing for the health of our community. A grassroots effort developed and succeeded in passage of legislation which banned the dangerous incineration of construction and demolition debris in order to protect human health and the health of our environment.

Now along comes SB 367 which purports to encourage increasing the importation of waste and using this waste as an additional income stream for private companies. Sadly, this effort does not fully disclose the significant downside of the process being proposed. Once again DES has not demonstrated the required concern for and oversight of public safety. It has not provided sufficient due diligence regarding the negative impact of the waste process being recommended. Through this ill-considered legislation New Hampshire would once again become the dumping ground for New England's dangerous waste. How is such a bill in the public interest?

Please oppose SB 367. Demand full and necessary due diligence regarding SB 367. Your duty as legislators requires this.

Thank you.

Janet Ward  
Contoocook, NH

**Heather Goley**

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**From:** Wayne Ruggles <wayne.ruggles@gmail.com>  
**Sent:** Tuesday, April 19, 2022 12:04 PM  
**To:** ~House Environment and Agriculture Committee  
**Subject:** SB367

I urge you to oppose SB 367

Wayne Ruggles  
Littleton, NH

Respectfully,

Sue Homola  
State Representative  
Hillsborough Co., District 27  
House Environment and Agriculture Committee





1 under its authority relating to waste-derived products and refuse-derived fuel, including but limited  
2 to the certification provisions of Env-Sw 1500.

3 III. Advanced recycling facilities shall give consideration to utilizing post-use polymers and  
4 recovered feedstocks generated within the state.

5 10 Effective Date. This act shall take effect 60 days after its passage.

1 (d) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or  
2 during processing at an advanced recycling facility.

3 7 Solid Waste; Definition. Amend RSA 149-M:XXII to read as follows:

4 XXII. "Solid waste" means any matter consisting of putrescible material, refuse, residue  
5 from an air pollution control facility, and other discarded or abandoned material. It includes solid,  
6 liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining, and  
7 agricultural operations, and from community activities. For purposes of this chapter, it does not  
8 include hazardous waste as defined in RSA 147-A:2; solid or dissolved materials in irrigation return  
9 flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such  
10 burial locations are not located within 75 feet of any drinking water supply; municipal and industrial  
11 discharges which are point sources subject to permits under section 402 of the federal Water  
12 Pollution Control Act, as amended; source, special nuclear or by-product material as defined by the  
13 Atomic Energy Act of 1954 , as amended; [or] septage or sludge as defined in RSA 485-A:2, IX-a and  
14 XI-a; *or post-use polymers and recovered feedstocks converted at an advanced recycling  
15 facility or held at such facility prior to conversion.*

16 8 New Paragraph; Solvolysis; Definition. Amend RSA 149-M:4 by inserting after paragraph  
17 XXII the following new paragraph:

18 *XXII-a. "Solvolysis" means a manufacturing process through which post-use  
19 polymers are purified with the aid of solvents, while heated at low temperatures and/or  
20 pressurized to make useful products, allowing additives and contaminants to be removed.  
21 The products of solvolysis include monomers, intermediates, and valuable chemicals and  
22 raw materials. The process includes but is not limited to hydrolysis, amyololysis  
23 ammonololysis, methanolysis and glycolysis.*

24 9 New Subdivision; Regulation of Advanced Recycling. Amend RSA 149-M by inserting after  
25 section 61 the following new subdivision:

26 Regulation of Advanced Recycling

27 149-M:62 Regulation of Advanced Recycling.

28 I. The department shall regulate advanced recycling facilities as manufacturing facilities.  
29 An advanced recycling facility and the products and by-products of advanced recycling shall be  
30 subject to applicable statutes and departmental rules relative to air, water, waste and land use. The  
31 department may enter and inspect any advanced recycling facility to determine whether storage of  
32 materials prior to advanced recycling is a nuisance or poses a threat to the environment. The  
33 department may utilize its enforcement authorities under RSA 149-M:15 to require abatement of the  
34 nuisance or threat if found.

35 II. Products of advanced recycling shall not be considered "waste-derived products" or  
36 "refuse-derived fuel" and shall not be subject to the provisions of this chapter and rules created

1           4 New Paragraph; Gasification; Definitions. Amend RSA 149-M:4 by inserting after paragraph  
2 IX-a the following new paragraph:

3           IX-b. "Gasification" means a manufacturing process through which recovered feedstocks are  
4 heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the mixture  
5 is converted into valuable raw materials and intermediate and final products, including but not  
6 limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstock and other  
7 basic hydrocarbons that are returned to economic utility in the form of raw materials and products.

8           5 New Paragraph; Post-Use Polymer; Definitions. Amend RSA 149-M:4 by inserting after  
9 paragraph XV the following new paragraph:

10           XV-a. "Post-use polymer" means a plastic to which all of the following apply:

11           (a) The plastic is derived from any industrial, commercial, agricultural, or domestic  
12 activities.

13           (b) It is not mixed with solid waste or hazardous waste onsite or during processing at an  
14 advanced recycling facility.

15           (c) The plastic's use or intended use is as a feedstock for the manufacturing of plastic  
16 and chemical feedstock other basic hydrocarbons, raw materials, or other intermediate products or  
17 final products using advanced recycling.

18           (d) The plastic has been sorted from solid waste and other regulated waste but may  
19 contain residual amounts of solid waste such as organic material and incidental contaminants or  
20 impurities such as paper labels and metal rings.

21           (e) The plastic is processed at a advanced recycling facility or held at such facility prior  
22 to processing.

23           6 New Paragraphs; Pyrolysis; Recovered Feedstock; Definitions. Amend RSA 149-M:4 by  
24 inserting after paragraph XVIII the following new paragraphs:

25           XVIII-a. "Pyrolysis" means a manufacturing process through which post-use polymers are  
26 heated in the absence of oxygen until melted and thermally decomposed and are then cooled,  
27 condensed, and converted into valuable raw materials and intermediate and final products,  
28 including but not limited to plastic monomers, chemicals, waxes, lubricants, plastic and chemical  
29 feedstock and other basic hydrocarbons, that are returned to economic utility in the form of raw  
30 materials or products.

31           XVIII-b. "Recovered feedstock" means one or more of the following materials that has been  
32 processed so it may be used as feedstock in an advanced recycling facility:

33           (a) Post-use polymers.

34           (b) Materials for which the United States Environmental Protection Agency has made a  
35 non waste determination pursuant to 40 C.F.R. 241.3(c), or has otherwise determined are feedstocks  
36 and not solid waste.

37           (c) Recovered feedstock does not include unprocessed municipal solid waste.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT           relative to the regulatory status of advanced recycling and manufacturing facilities.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 New Paragraphs; Definitions. Amend RSA 149-M:4 by inserting after paragraph I the  
2 following new paragraphs:

3           I-a. "Advanced recycling" means a manufacturing process for the conversion of post-use  
4 polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstock chemicals, and  
5 other products like waxes and lubricants through processes that include pyrolysis, gasification,  
6 depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, and other similar  
7 technologies. The recycled products produced at advanced recycling facilities include, but are not  
8 limited to monomers, oligomers, plastics, plastics and chemical feedstock basic and unfinished  
9 chemicals, waxes, lubricants, coatings, and other basic hydrocarbons. For the purposes of this  
10 chapter, "advanced recycling" shall not be considered solid waste management, solid waste  
11 processing, waste processing, treatment, incineration, or combustion.

12           I-b. "Advanced recycling facility" means a facility that receives, stores, and converts post use  
13 polymers and recovered feedstock it receives using advanced recycling. An advanced recycling  
14 facility shall be considered a manufacturing facility. For the purposes of this chapter, "advanced  
15 recycling facilities" shall not be considered facilities, solid waste facilities, solid waste management  
16 facilities, waste management facilities, processing/treatment facilities, solid waste collection,  
17 storage, and transfer facilities, processing facilities, treatment facilities, or incinerators.

18           2 Definition of Certified Waste-Derived Product. Amend RSA 149-M:4, II-a to read as follows:

19           II-a. "Certified waste-derived product" means a constituent of solid waste which is no longer  
20 regulated as a solid waste when certified by the department to be recyclable for its original use or  
21 alternate uses and which poses no greater risk to the environment, public health, and safety than  
22 exists by producing, distributing, using, or disposing comparable products which are not waste-  
23 derived. ***Products derived from advanced recycling shall not be considered waste-derived***  
24 ***products or require certification as waste-derived products.***

25           3 New Paragraph; Depolymerization; Definitions. Amend RSA 149-M:4 by inserting after  
26 paragraph V the following new paragraph:

27           V-a. "Depolymerization" means a manufacturing process where post-use polymers are  
28 broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final  
29 products, plastics and chemical feedstock basic and unfinished chemicals, waxes, lubricants,  
30 coatings, and other basic hydrocarbons.

SB 367 - AS AMENDED BY THE SENATE

02/24/2022 0789s

2022 SESSION

22-2965

08/11

SENATE BILL **367**

AN ACT relative to the regulatory status of advanced recycling and manufacturing facilities.

SPONSORS: Sen. Avard, Dist 12; Sen. Watters, Dist 4; Sen. Hennessey, Dist 1; Sen. Bradley, Dist 3; Sen. Soucy, Dist 18; Sen. French, Dist 7; Sen. Cavanaugh, Dist 16; Rep. Pearl, Merr. 26; Rep. Potucek, Rock. 6

COMMITTEE: Energy and Natural Resources

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ANALYSIS

This bill regulates advanced recycling and manufacturing facilities.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.