

**38 §1319-O. RULE-MAKING AUTHORITY;
HAZARDOUS WASTE AND WASTE OIL**

38 §1319-O. RULE-MAKING AUTHORITY; HAZARDOUS WASTE AND WASTE OIL

1. Hazardous waste. Rulemaking for hazardous waste shall be as follows.

A. The board may adopt and amend rules identifying hazardous waste. It is the intent of the Legislature that the board shall identify as hazardous waste those substances that are identified by the United States Environmental Protection Agency in proposed or final regulations. The Legislature also intends that the board may identify as hazardous waste, in accordance with paragraph B, other substances in addition to those identified by the United States Environmental Protection Agency. Further, the Legislature intends that a substance that has been identified as a hazardous waste by the board must be removed from identification only by further rulemaking by the board.

Hazardous waste may be identified as follows.

(1) The board may identify any substance as a hazardous waste if that substance is identified as hazardous by particular substance, by characteristic, by chemical class or as a waste product of a specific industrial activity in proposed or final rules of the United States Environmental Protection Agency.

(2) The board may identify any substance as a hazardous waste if the board, after evaluation based on existing data or data reasonably extrapolated from previously conducted studies using similar classes of substances or compounds under similar circumstances, has determined that the substance is an acute or chronic toxin causing significant potential adverse public health or environmental effects. An acute or chronic toxin may include the characteristics of:

- (a) Carcinogenicity;
- (b) Mutagenicity;
- (c) Teratogenicity; or
- (d) Infectiousness.

Rules adopted under this subparagraph must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources for review. These rules remain in effect until 90 days after adjournment of the next regular session of the Legislature unless adopted by legislative enactment.

(3) Whenever the board proposes to adopt or amend rules identifying hazardous waste or removing hazardous waste from identification, it shall hold a public hearing.

(4) In addition to hazardous waste identified under subparagraphs (1) and (2), the Legislature identifies the following chemicals, materials, substances or waste as being hazardous waste:

- (a) Polychlorinated biphenyls and any substance containing polychlorinated biphenyls. [1989, c. 124, §2 (AMD); 1989, c. 869, Pt. A, §10 (AMD); 1989, c. 869, Pt. A, §21 (AFF).]

B. The board may adopt rules relating to the handling of hazardous waste, including, but not limited to:

- (1) Containerization and labeling of hazardous waste, consistent with applicable rules of other federal and state agencies;
- (2) Reporting of handling of hazardous waste; and
- (3) Waste which is not compatible. [1987, c. 517, §28 (NEW).]

C. The board may adopt rules relating to transportation of hazardous waste, including, but not limited to:

(1) Licensing of transporters of hazardous waste, conveyances used for the transportation of hazardous waste and the operators of these conveyances; and licensing fees shall be paid to the Maine Hazardous Waste Fund; and

(2) A manifest system for hazardous waste which takes into consideration the requirements of the United States Resources Conservation and Recovery Act of 1976, Public Law 94-580, as amended, and this subchapter. [1987, c. 517, §28 (NEW) .]

D. The board may adopt rules relating to the interim and final licensing and operation of waste facilities for hazardous waste, including, but not limited to:

(1) Standards for the safe operation and maintenance of the waste facilities, including, but not limited to, record keeping, monitoring before and during operation of the facility and after its termination of use or closure, inspections and contingency plans to minimize potential damage from hazardous waste;

(2) The training of personnel and the certification of supervisory personnel involved in the operation of the waste facilities;

(3) The termination, closing and potential future uses of the waste facilities;

(4) Rules equivalent to regulations of the United States Environmental Protection Agency that provide for licensing or permitting by rule; and

(5) Corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage or disposal facility seeking a permit under this subchapter, regardless of the time waste was placed in the unit. For purposes of this paragraph, solid waste management unit includes any waste pile, landfill, surface impoundment or land treatment facility from which hazardous constituents might migrate, regardless of whether the unit was intended for the management of solid or hazardous wastes. [1989, c. 794, §4 (AMD) .]

E. The board may adopt rules relating to evidence of financial capacity of hazardous waste facilities' owners or operators, and of those who transport hazardous waste, to protect public health, safety and welfare and the environment, including, but not limited to:

(1) Liability insurance;

(2) Bonding; and

(3) Financial ability to comply with statutory and regulatory requirements or conditions.

Evidence of financial capacity required by the board may include one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit or qualification as a self-insurer. In establishing the required evidence of financial capacity to further the purposes of this subchapter, the board may specify policy or other contractual terms, conditions or defenses that are necessary or that are unacceptable. [1989, c. 794, §4 (AMD) .]

F. By January 1, 2000, the board shall adopt, at a minimum, the universal waste rules, excluding pesticides, promulgated by the United States Environmental Protection Agency as defined in 40 Code of Federal Regulations, Parts 9, 260, 261, 262, 264, 265, 266, 268, 270 and 273. [1999, c. 340, §1 (NEW) .]

[1999, c. 340, §1 (AMD) .]

2. Waste oil. Rulemaking for waste oil shall be as follows:

A. The board may adopt rules relating to the transportation, collection and storage of waste oil to protect public health, safety and welfare and the environment. The rules may include, without limitation, rules requiring licenses for waste oil dealers and the location of waste oil storage sites that are operated by waste oil dealers, evidence of financial capability and manifest systems for waste oil. A person licensed by the department to transport or handle hazardous waste is not required to obtain a waste oil dealer's

license, but the hazardous waste license must include any terms or conditions determined necessary by the department relating to the transportation or handling of waste oil; and [1997, c. 624, §18 (AMD) .]

B. The board may adopt rules relating to the registration, design and operation of used oil collection centers for the purposes of section 1319-Y. Rules adopted pursuant to this paragraph are major substantive rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A. [1995, c. 573, §5 (NEW) .]

[1997, c. 624, §18 (AMD) .]

3. Handling and disposal of biomedical waste. The board shall adopt rules relating to the packaging, labeling, handling, storage, collection, transportation, treatment and disposal of biomedical waste, including infectious and pathogenic waste, to protect public health, safety and welfare and the environment.

A. The rules must include, without limitation:

- (1) Registration of biomedical waste generators;
- (2) Handling of biomedical waste by generators;
- (3) Licensing of biomedical waste transporters and the conveyances used for the transportation of biomedical waste;
- (4) Implementation of a biomedical waste tracking or manifest system;
- (5) Establishment of treatment and disposal standards; and
- (6) Categories of biomedical waste subject to regulation under this subsection, consistent with the provisions of section 1303-C, subsection 1-A. [1989, c. 124, §3 (NEW); 1989, c. 869, Pt. A, §11 (AMD); 1989, c. 869, Pt. A, §21 (AFF) .]

B. The board shall adopt rules governing the siting, licensing, operational and record-keeping requirements for biomedical waste treatment, storage and disposal facilities. [1989, c. 124, §3 (NEW); 1989, c. 860, Pt. A, §11 (AMD); 1989, c. 860, Pt. A, §21 (AFF) .]

C. The board shall require evidence of financial capacity. [1989, c. 124, §3 (NEW) .]

D. The board may assess licensing and registration fees sufficient to pay for the department's administrative costs in regulating biomedical waste. [2005, c. 549, §6 (AMD) .]

E. The rules must provide transportation and disposal options for persons who generate fewer than 50 pounds of sharps per month that allow:

- (1) The generator or an employee of the generator to transport properly packaged sharps to a licensed biomedical waste disposal facility or another medical facility that has volunteered to serve as a collection point for sharps if no more than 50 pounds of sharps are transported in one trip; and
- (2) The generator to mail properly packaged sharps to a licensed biomedical waste disposal facility in this State or a facility in another state if the carrier accepts those items and no more than 50 pounds are transported in any single package.

For purposes of this paragraph, "sharps" means items that may cause puncture wounds or cuts, including hypodermic needles, syringes, scalpel blades, capillary tubes and lancets, and "properly packaged" means packaged in accordance with department rules and rules or requirements imposed by the mail carrier. [1993, c. 529, §1 (NEW) .]

[2005, c. 549, §6 (AMD) .]

SECTION HISTORY

1987, c. 517, §28 (NEW). 1989, c. 124, §§2,3 (AMD). 1989, c. 794, §4 (AMD). 1989, c. 869, §§A10,11,21 (AMD). 1989, c. 890, §§A40,B261 (AMD). 1993, c. 529, §1 (AMD). 1995, c. 573, §§4,5 (AMD). 1997, c. 624, §18 (AMD). 1999, c. 340, §1 (AMD). 2005, c. 549, §6 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 124th Legislature, and is current through December 31, 2009, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.