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## **An Act Regarding the Transfer of Licenses for Energy Recovery Facilities**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §1310-Q**, as amended by PL 2005, c. 612, §3, is further amended to read:

### **§ 1310-Q. Transfer of license**

**1. Transfer.** ~~No~~A person may not transfer a license issued pursuant to this Title without the transfer of the license being approved by the department prior to transfer of the ownership of the property, facility or structure that constitutes or is part of the solid waste disposal facility. The department, at its discretion, may require that the proposed new owner of the facility apply for a new license or may approve the transfer of the existing license upon a satisfactory showing that the new owner can abide its terms and conditions and will be able to comply with the provisions of this Title, except that the department may not approve the transfer of an existing license of a municipal solid waste disposal facility to a private entity and the department may not approve the transfer of the license of a solid waste facility subject to subsection 2 unless the provisions of that subsection are satisfied. The department shall consider the extent to which the disposal facility was sited and developed and is currently operated to meet the capacity needs of municipalities within a specific geographic region. The department shall approve the transfer of license when, in addition to all other requirements of this Title, the applicant has demonstrated that:

- A. The facility will continue to be operated to meet the municipal disposal capacity needs for which the facility was sited and developed and for which it is currently operated;
- B. The applicant has made substantially equivalent, alternative provisions to satisfy these disposal capacity needs; or
- C. These disposal capacity needs no longer exist.

**2. Transfers of solid waste license for a facility that incinerates municipal solid waste or special waste.** In addition to the provisions of subsection 1, during the stated term of any waste handling contract between a solid waste facility that incinerates municipal solid waste or special waste and the host community in which the facility is geographically sited, the department may approve the transfer of a solid waste facility license from the solid waste facility only after the expiration of a due diligence review period for the host community in which the facility is geographically sited, which must conclude within 180 days of the date of filing of the application for transfer of the license. For purposes of this section, any change of owner or operator of the solid waste facility, whether accomplished through sale, merger, lease, sale of stock, assignment or otherwise, is subject to the requirement set forth in this subsection. Any facility owned wholly or in part by a regional association pursuant to section 1304-B, subsection 5 is exempt from this subsection. A transfer to a host community in which the facility is geographically sited is exempt from this subsection.

The board shall decide all applications for transfer of a license subject to this subsection. The board shall hold a public hearing on a transfer application within or in the vicinity of the municipality in which the facility is located after expiration of the due diligence review period prescribed in this subsection.

**Sec. 2. Retroactivity.** This Act applies retroactively to April 1, 2009.

Effective September 12, 2009