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**Public Law**  
123rd Legislature  
Second Regular Session

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**Chapter 583**  
**H.P. 610 - L.D. 810**

**An Act To Improve Solid Waste Management**

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

**Sec. 1. 38 MRSA §1303-C, sub-§32-A** is enacted to read:

**32-A. Solid waste processing facility.** "Solid waste processing facility" means a land area, structure, equipment, machine, device, system or combination thereof, other than an incineration facility, that is operated to reduce the volume or change the chemical or physical characteristics of solid waste. "Solid waste processing facility" includes but is not limited to a facility that employs shredding, baling, mechanical and magnetic separation or composting or other stabilization technique to reduce or otherwise change the nature of solid waste.

**Sec. 2. 38 MRSA §1310-N, sub-§1, ¶C,** as repealed and replaced by PL 1997, c. 393, Pt. A, §47, is amended to read:

C. In the case of a disposal facility or a solid waste processing facility that generates residue requiring disposal, the volume of the waste and the risks related to its handling and disposal have been reduced to the maximum practical extent by recycling and source reduction prior to disposal. This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling or to any other facility exempt from the requirements of subsection 5-A. The department shall find that the provisions of this paragraph are satisfied when the applicant demonstrates that the applicable requirements of subsection 5-A have been satisfied.

**Sec. 3. 38 MRSA §1310-N, sub-§5,** as repealed and replaced by PL 1997, c. 393, Pt. A, §48, is repealed.

**Sec. 4. 38 MRSA §1310-N, sub-§5-A** is enacted to read:

**5-A. Recycling and source reduction determination.** The requirements of this subsection apply to solid waste disposal facilities and to solid waste processing facilities that generate residue requiring disposal.

A. An applicant for a new or expanded solid waste disposal facility shall demonstrate that:

(1) The proposed solid waste disposal facility will accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by this chapter and other provisions of state law. The department shall attach this requirement as a standard condition to the license of a solid waste disposal facility governing the future acceptance of solid waste at the proposed facility; and

(2) The applicant has shown consistency with the recycling provisions of the state plan.

This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling.

B. The provisions of this paragraph apply to solid waste processing facilities that generate residue requiring disposal.

(1) An applicant for a new or expanded solid waste processing facility that generates residue requiring disposal shall demonstrate that all requirements of this paragraph will be satisfied. On an annual basis, an owner or operator of a licensed solid waste processing facility that generates residue requiring disposal shall demonstrate compliance with all the requirements of this paragraph. The annual demonstration of compliance must be included as an element of the facility's annual report to the department submitted in conformance with the provisions of subsection 6-D, paragraph B and department rules.

(2) A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion all waste accepted at the facility to the maximum extent practicable, but in no case at a rate less than 50%. For purposes of this subsection, "recycle" includes, but is not limited to, reuse of waste as shaping, grading or alternative daily cover materials at landfills; aggregate material in construction; and boiler fuel substitutes.

(3) A solid waste processing facility subject to this paragraph shall demonstrate consistency with the recycling provisions of the state plan.

(4) The requirements of this paragraph do not apply to solid waste composting facilities; solid waste processing facilities whose primary purpose is volume reduction or other waste processing or treatment prior to disposal of the waste in a landfill or incineration facility; solid waste processing facilities that are licensed in accordance with permit-by-rule provisions of the department's rules; or solid waste processing facilities that are exempt from the requirements of the solid waste management rules related to processing facilities adopted by the board.

(5) If the department amends the rules relating to fuel quality for construction and demolition wood fuel and the amendment adversely affects the ability of a solid waste processing facility to meet the 50% standard in subparagraph (2), the department may not enforce the requirements of subparagraph (2) against that processing facility and the department shall submit to the joint

standing committee of the Legislature having jurisdiction over natural resources matters a report relating to the rule change. The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation related to the report.

The department shall adopt rules to implement the provisions of this paragraph. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The department may not enforce the recycling requirements of subparagraph (2) prior to the effective date of rules that define "to the maximum extent practicable."

**Sec. 5. 38 MRSA §1310-R, sub-§2, ¶A,** as amended by PL 1989, c. 585, Pt. E, §30 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §246, is further amended to read:

A. The department shall apply the provisions of section 1310-N, subsection ~~55-A~~, paragraph A, subparagraph (1) when relicensing any solid waste disposal facility, except that, to the extent that waste disposal contracts in effect on June 29, 1987; are inconsistent with section 1310-N, subsection ~~55-A~~, paragraph A, in which casesubparagraph (1), those provisions apply at the expiration of the term of those contracts without consideration of any renewals or extensions of those contracts.

**Sec. 6. 38 MRSA §1310-R, sub-§2, ¶C,** as amended by PL 1989, c. 585, Pt. E, §30, is further amended to read:

C. The provisions of section 1310-N, subsection ~~55-A~~, paragraph ~~BA~~, subparagraph (2) do not apply to the relicensing of any solid waste disposal facility licensed prior to June 29, 1987.

**Sec. 7. 38 MRSA §2101, sub-§1,** as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

**1. Priorities.** It is the policy of the State to plan for and implement an integrated approach to solid waste management for solid waste generated in this State and solid waste imported into this State, which ~~shall~~must be based on the following order of priority:

- A. Reduction of waste generated at the source, including both amount and toxicity of the waste;
- B. Reuse of waste;
- C. Recycling of waste;
- D. Composting of biodegradable waste;
- E. Waste processing ~~which~~that reduces the volume of waste needing land disposal, including incineration; and
- F. Land disposal of waste.

It is the policy of the State to use the order of priority in this subsection as a guiding principle in making decisions related to solid waste management.

**Sec. 8. 38 MRSA §2124-A,** as amended by PL 2007, c. 192, §5, is further amended to read:

**§ 2124-A. Solid waste generation and disposal capacity report**

By January 1, 2008 and annually thereafter, the office shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters, the Governor and the department setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

The report submitted under this section must include an analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the office determines that a decline in available landfill capacity has generated or has the potential to generate supracompetitive prices, the office shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.

Beginning on January 1, 2009 and every odd-numbered year thereafter, the report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill. The January 2009 report must also include an analysis of the solid waste disposal needs of the State as of January 1, 2009 for the next 3, 5 and 10 years.

Beginning on January 1, 2010 and every even-numbered year thereafter, the report submitted under this section must include an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.

The joint standing committee of the Legislature having jurisdiction over solid waste matters may report out legislation related to the report submitted pursuant to this section.

**Sec. 9. Solid waste odor management report.** The Department of Environmental Protection shall prepare a report on solid waste odor management. The report must include an examination of solid waste odor regulation from the point of disposition of the waste through disposal of the waste at a solid waste disposal facility, including odor regulation related to transportation of the waste. The report must also include the status of federal weight restrictions on Interstate 95. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 5, 2009.

**Sec. 10. Duties and responsibilities for managing solid waste.** By July 31, 2008, the Department of Environmental Protection and the Executive Department, State Planning Office, referred to in this section as "the agencies," shall develop a system by which solid waste management activities are performed by them. By August 30, 2008, the agencies shall implement elements of the system that do not require statutory changes. By January 5, 2009, the agencies shall submit a report on the system to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must identify any legislative changes that are necessary for the implementation of the system and must report on the elements of the system that have been implemented by the agencies. The report must also include an analysis of the agencies' respective ability to control the different and various waste streams flowing into state-owned landfills. The committee may report out legislation relating to the report to the First Regular Session of the 124th Legislature.

**Sec. 11. Solid waste disposal facility recycling standards; report.** By January 15, 2009, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report detailing a method for setting mandatory recycling standards for all solid waste disposal facilities.