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An Act To Improve Landfill Capacity

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

PART A

Sec. A-1. 38 MRSA §1310-N, sub-§5-A, ¶B, as enacted by PL 2007, c. 583, §4, is amended to read:

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~~routine technical 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. A-2. Processing facility recycling rulemaking; status report.

1. Report. By February 1, 2010, the Department of Environmental Protection shall submit to the Joint Standing Committee on Natural Resources a report relating to the development and status of rules that define the term "to the maximum extent practicable" as that term is used in the Maine Revised Statutes, Title 38, section 1310-N, subsection 5-A, paragraph B, subparagraph (2). In connection with the report, the department shall investigate current recycling technologies and practices as they relate to the creation of fine material, known as "fines," that is qualified to be used as alternative daily cover at landfills under Title 38, section 1310-N, subsection 5-A, paragraph B, subparagraph (2). The results of that investigation must be included in the department's report. The Joint Standing Committee on Natural Resources may submit legislation related to the report to the Second Regular Session of the 124th Legislature.

2. Rulemaking. By April 1, 2010, the Department of Environmental Protection shall adopt rules that define the term "to the maximum extent practicable" as that term is used in the Maine Revised Statutes, Title 38, section 1310-N, subsection 5-A, paragraph B, subparagraph (2).

PART B

Sec. B-1. PL 2007, c. 583, §10 is amended to read:

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~~ Second Regular Session of the 124th Legislature.

Sec. B-2. Review and assessment of solid waste management policy; state-owned landfills. The Executive Department, State Planning Office shall work collaboratively with other state agencies and interested parties to conduct a review and assessment of the State's solid waste management policy and submit a report relating to the review and assessment. The review and assessment must include, but is not limited to:

1. Whether funding for management and oversight of state-owned landfills is sufficient to carry out the legislative intent of the Maine Revised Statutes, Title 38, chapter 13;
2. Whether management or operational modifications should be instituted at the state-owned landfill;
3. Whether amendments to the operating services agreement between the State and the operator of the state-owned landfill should be negotiated to eliminate fuel services agreements and caps on tipping fees and to establish annual maximum fill rates; and
4. Whether the restriction on the expansion of commercial solid waste disposal facilities in Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.

By January 5, 2010, the office shall report its findings and recommendations, including any draft legislation necessary to implement its recommendations, to the Joint Standing Committee on Natural Resources, which is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature.

Effective September 12, 2009