

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 646 - L.D. 879

An Act To Ensure Adequate Landfill Capacity in the State for Solid Waste

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

Sec. 1. 38 MRSA §1310-X, sub-§3, as amended by PL 1995, c. 68, §1 and c. 465, Pt. A, §21 and affected by Pt. C, §2, is further amended to read:

3. Expansion of facilities. The department may license an expansion of a commercial solid waste disposal or biomedical waste disposal or treatment facility after September 30, 1989 if:

- A. The department has previously licensed the facility prior to October 6, 1989;
- B. The department determines that the proposed expansion is contiguous with the existing facility and ~~is located on property owned on December 31, 1989 by the licensee or by a corporation or other business entity under common ownership or control with the licensee; and:~~
 - (1) Is located on property owned on December 31, 1989 by the licensee or by a corporation or other business entity under common ownership or control with the licensee; or
 - (2) For a commercial solid waste disposal facility that is a commercial landfill facility that is not under order or agreement to close, is located on property owned by the licensee; and
- C. For a commercial solid waste disposal facility the commissioner or the department determines as provided in section 1310-N, subsection 3-A that the facility provides a substantial public benefit.

The department may not process or act upon any application or license an expansion of a commercial landfill facility pursuant to this subsection until the applicant demonstrates to the department that it is in full compliance with the host community agreement pursuant to section 1310-N, subsection 9, if any, on the existing facility and until a host community agreement amendment is executed to account for the proposed expansion.

An expanded facility may not receive a property tax exemption on real or personal property.

Sec. 2. 38 MRSA §1310-AA, sub-§1-A, ¶D, as enacted by PL 2007, c. 338, §3 and affected by §5, is amended to read:

D. For purposes of this subsection, "waste that is generated within the State" includes residue and bypass generated by incineration, processing and recycling facilities within the State; waste whether generated within the State or outside of the State used for daily cover, frost protection or stability in accordance with all applicable rules and licenses; and waste generated within 30 miles of the solid waste disposal facility.

Sec. 3. 38 MRSA §1310-AA, sub-§2, as amended by PL 2007, c. 338, §3 and affected by §5, is further amended to read:

2. Process. Determinations by the commissioner under this section are not subject to Title 5, chapter 375, subchapter 4. The ~~commissioner~~ applicant shall provide public notice of the filing of an application under this section ~~and in accordance with department rules.~~ The department shall accept written public comment on during the course of processing the application for 20 days after the date of the notice. In making the determination of whether the facility under subsection 1 or the acceptance of waste that is not generated within the State under subsection 1-A provides a substantial public benefit, the commissioner shall consider the state plan, written information submitted in support of the application and any other written information the commissioner considers relevant. The commissioner ~~may~~ shall hold a public meeting in the vicinity of the proposed facility under subsection 1 or the solid waste landfill under subsection 1-A to take public comments and shall consider those comments in making the determination. The commissioner shall issue a decision on the matter within 60 days of receipt of the application. The commissioner's decisions under this section may be appealed to the board, but the board is not authorized to assume jurisdiction of a decision under this section.

Sec. 4. 38 MRSA §1310-AA, sub-§3, ¶A, as enacted by PL 1995, c. 465, Pt. A, §22 and affected by Pt. C, §2, is amended to read:

A. Meets immediate, short-term or long-term capacity needs of the State. For purposes of this paragraph, "immediate" means within the next 3 years, "short-term" means within the next 5 years and "long-term" means within the next 10 years. When evaluating whether a proposed facility meets the capacity needs of the State, the commissioner shall consider relevant local and regional needs as appropriate and the regional nature of the development and use of disposal capacity due to transportation distances and other factors;

Sec. 5. 38 MRSA §1310-AA, sub-§3, ¶B, as amended by PL 2007, c. 338, §3 and affected by §5, is further amended to read:

B. Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, is consistent with the state waste management and recycling plan and promotes the solid waste management hierarchy as set out in section 2101;

Sec. 6. 38 MRSA §1310-AA, sub-§5, as enacted by PL 2007, c. 414, §5, is amended to read:

5. Modifications. Public benefit determinations may be revised by the department if the department finds that a material change in the underlying facts or circumstances upon which a public benefit determination was based has occurred or is proposed, including, but not limited to, a change related to disposal capacity or a change of the owner or operator of a facility. The department may require the holder of a public benefit determination to submit an application for modification of that determination if the department finds that a change in the underlying facts or circumstances has occurred or is proposed.

Sec. 7. 38 MRSA §1310-AA, sub-§7 is enacted to read:

7. Decision making. When making a decision on an application for a determination of public benefit, the commissioner:

A. May issue a full or partial approval of an application, with or without conditions; and

B. For an application related to a state-owned solid waste disposal facility, shall conduct a review that is in accordance with the provisions of this section and is independent of any other contract or agreement between the State and the facility operator or any other party concerning the operation or development of the facility.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor