

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1303

S.P. 423

In Senate, April 21, 1987

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate  
Presented by Senator KANY of Kennebec.

Cosponsored by Senator TUTTLE of York, Representative MURPHY of Berwick, Representative RICHARD of Madison.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Establish Capacity Controls on  
Commercial Solid Waste Disposal  
Facilities.

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

Sec. 1. 38 MRSA §1303, sub-§1-D is enacted to read:

1-D. Commercial solid waste disposal facility.  
"Commercial solid waste disposal facility" means a privately-owned waste facility which accepts solid waste for a fee or other consideration; which is used for the burial, incineration or other method of solid waste disposal; and which is used for the disposal of solid waste other than waste generated by its owners. The term does not include a solid waste disposal fa-

1 cility owned, controlled, operated or used exclusive-  
2 ly by:

3 A. A public waste disposal corporation under  
4 section 1304-B, subsection 5;

5 B. A municipality under section 1305; or

6 C. A refuse disposal district under chapter 17.

7 **Sec. 2. 38 MRSA §1304, sub-§2, as repealed and**  
8 **replaced by PL 1979, c. 383, §4, is repealed.**

9 **Sec. 3. 38 MRSA §1304, sub-§8, ¶A, as amended by**  
10 **PL 1985, c. 822, §4, is further amended to read:**

11 **A. The board shall issue a license for a**  
12 **hazardous waste facility whenever it finds it**  
13 **will not pollute any water of the State, contami-**  
14 **nate the ambient air, constitute a hazard to**  
15 **health or welfare, or create a nuisance. Licenses**  
16 **shall be issued under the terms and conditions as**  
17 **the board may prescribe, and for a term not to**  
18 **exceed 5 years. The board may establish reason-**  
19 **able time schedules for compliance with this sub-**  
20 **chapter and regulations promulgated by the board.**  
21 **Prior to 91 days after the First Regular Session**  
22 **of the 113th Legislature adjourns, the department**  
23 **shall not process or act upon any application**  
24 **for, and the board shall not issue, a license for**  
25 **a new commercial landfill facility or the sub-**  
26 **stantial expansion of a commercial landfill fa-**  
27 **cility. In processing applications after the**  
28 **moratorium, priority shall be given to applica-**  
29 **tions for commercial landfill facilities used for**  
30 **the disposal of solid waste which is generated by**  
31 **an energy recovery facility designed to reduce**  
32 **the volume or alter the physical characteristics**  
33 **of municipal solid waste and to produce electric-**  
34 **ity through incineration.**

35 **Sec. 4. 38 MRSA §§1310-C to 1310-F are enacted**  
36 **to read:**

37 **§1310-C. Site location license**

1 No person may locate, establish, construct, alter  
2 or operate any commercial solid waste disposal facil-  
3 ity unless approved by the board under the site loca-  
4 tion of development law, article 6 and this chapter.

5 1. Licenses. The board shall issue a license  
6 for a commercial solid waste disposal facility when-  
7 ever it finds that:

8 A. The facility will not pollute any water of  
9 the State, contaminate the ambient air, consti-  
10 tute a hazard to health or welfare or create a  
11 nuisance;

12 B. The facility is required to meet clearly  
13 identified public needs for disposal capacity;

14 C. The volume of the waste and the risks related  
15 to its handling and disposal have been reduced to  
16 the maximum practical extent by recycling and  
17 source reduction prior to disposal; and

18 D. The applicant has received all necessary lo-  
19 cal permits or licenses.

20 2. Finding of environmental suitability. The  
21 board prior to making its determinations pursuant to  
22 subsection 1, paragraphs B, C and D shall issue a  
23 finding of environmental suitability when it deter-  
24 mines that the applicant has satisfied the require-  
25 ments of the site location of development law, arti-  
26 cle 6 and subsection 1, paragraph A.

27 3. Public needs determination. The board shall  
28 find that a facility meets clearly identified public  
29 needs for disposal capacity when the applicant demon-  
30 strates that:

31 A. The applicant possesses firm contractual com-  
32 mitments from waste generators located within the  
33 State;

34 B. The proposed facility is sized to meet the  
35 requirements of the applicant's contractual com-  
36 mitments, the capacity needs identified pursuant  
37 to section 1310-D and an additional amount as the  
38 board finds necessary to reasonably provide for

1 unpredictable future circumstances. The addi-  
2 tional amount may not exceed 20% of the capacity  
3 needs identified pursuant to section 1310-D; or

4 C. In the case of an emergency in which the  
5 board finds that the capacity needs analysis,  
6 prepared pursuant to section 1310-D, does not re-  
7 fect the immediate needs of the State for dis-  
8 posal capacity, the board may waive the require-  
9 ment that the size of the proposed facility be  
10 consistent with capacity needs analysis. In  
11 those situations, the board shall base its deci-  
12 sion concerning facility size on information pro-  
13 vided by the applicant under paragraph A.

14 4. Recycling and source reduction determination.  
15 The board shall find that the provisions of subsec-  
16 tion 1, paragraph C are satisfied when the applicant  
17 demonstrates the following.

18 A. The proposed solid waste disposal facility  
19 will accept solid waste which is, at its source  
20 or point of generation, subject to recycling and  
21 source reduction requirements at least as strin-  
22 gent as those imposed by this chapter and other  
23 provisions of law.

24 (1) The board shall attach this requirement  
25 as a standard condition to the license of a  
26 solid waste disposal facility governing the  
27 future acceptance of solid waste at the pro-  
28 posed facility.

29 B. The applicant has incorporated into the fa-  
30 ility design the best technically and economi-  
31 cally feasible recycling alternatives which are  
32 reasonably within the applicant's control.

33 (1) The board may require an applicant for  
34 a solid waste disposal facility license to  
35 conduct an assessment of the recycling al-  
36 ternatives applicable to the solid waste  
37 stream of the proposed facility. The appli-  
38 cant shall study the technical and economic  
39 feasibility of the alternatives under pre-  
40 vailing market conditions. The board shall  
41 evaluate the applicant's recycling assess-

1 ment in conjunction with the most recent  
2 state recycling plan.

3 5. Terms and compliance schedules. Licenses  
4 shall be issued under such terms and conditions as  
5 the board may prescribe, for a term not to exceed 5  
6 years. The board may establish reasonable time  
7 schedules for compliance with this article and rules  
8 promulgated by the board.

9 §1310-D. Capacity needs analysis

10 The board shall complete and adopt by rule an  
11 analysis of the solid waste disposal capacity needs  
12 of the State by January 1, 1989. The analysis shall  
13 provide the basis for facility siting decisions as  
14 provided in section 1310-C, subsection 1, paragraph  
15 B, and section 1310-C, subsection 3. The analysis  
16 shall also serve as a guide for municipal and commer-  
17 cial entities interested in developing solid waste  
18 facilities to meet state needs. The board shall pre-  
19 pare the capacity needs analysis according to the  
20 following provisions.

21 1. Data collection. The board shall develop and  
22 maintain a comprehensive data base on solid waste in  
23 the State. The types of data collected shall in-  
24 clude:

25 A. The amount of solid waste generated, handled  
26 or transported within the State;

27 B. The source of the waste;

28 C. The type of waste;

29 D. The type of treatment or disposal technolo-  
30 gies currently employed, including without limi-  
31 tation, recycling, landspreading, composting or  
32 incineration; and

33 E. The capacity of existing licensed solid waste  
34 treatment and disposal facilities receiving  
35 wastes generated within the State.

36 2. Needs analysis. The board shall identify the  
37 need for solid waste treatment and disposal capacity

1 by type of solid waste. The analysis shall include:

2 A. Identification of solid wastes by type gener-  
3 ated within the State which are capable of being  
4 reused or recycled in an economically and  
5 environmentally sound manner and the preferred  
6 technologies to be utilized;

7 B. A survey of the solid waste generators and  
8 the facilities they utilize;

9 C. Estimation of waste generation by waste type  
10 over the next 10 years, based on the best availa-  
11 ble forecasts of economic activity within the  
12 State, estimates provided by the solid waste gen-  
13 erators and other available information; and

14 D. Comparison of the projected waste generation  
15 levels with existing capacity.

16 3. Regional and local considerations. In devel-  
17 oping the capacity needs analysis, the board shall  
18 consult with regional planning commissions and munic-  
19 ipal officials concerning the specific needs of their  
20 locales. The board shall identify areas of the State  
21 which are underserved with regard to waste treatment  
22 or disposal capacity or which have capacity in excess  
23 of regional needs.

24 4. Revisions. The board shall revise the analy-  
25 sis as necessary but, in no case less than every 2  
26 years, to incorporate changes in the waste generation  
27 trends, changes in waste disposal technologies, the  
28 development of new waste generating activities and  
29 other factors affecting solid waste management as the  
30 board finds appropriate.

31 5. Rules and procedural requirements. The board  
32 may adopt rules as necessary to require waste genera-  
33 tors, handlers and disposal facility operators to re-  
34 port on the types, quantities and characteristics of  
35 the solid wastes they handle and on the capacity of  
36 the facilities they operate. The board shall coordi-  
37 nate development of the solid waste capacity needs  
38 analysis with the hazardous waste facility needs plan  
39 developed annually pursuant to section 1304-A.

1       §1310-E. Transition provisions

2               The following transition provisions shall apply  
3 to applicants for solid waste disposal facility li-  
4 licenses.

5               1. Recycling. Section 1310-C, subsection 1,  
6 paragraph C, and section 1310-C, subsection 4, shall  
7 apply to all solid waste disposal facilities licensed  
8 after January 1, 1988. Beginning on January 1, 1992,  
9 the board, at the time of renewal of licenses issued  
10 under this article, shall apply the provisions of  
11 section 1310-C, subsection 1, paragraph C, and sec-  
12 tion 1310-C, subsection 4, to all solid waste dispos-  
13 al facilities.

14               2. Capacity needs. Section 1310-C, subsection  
15 1, paragraph B, and section 1310-C, subsection 3,  
16 shall apply to all applications for solid waste dis-  
17 posal facility licenses accepted after the adoption  
18 of the capacity needs analysis pursuant to section  
19 1310-D. An applicant for a solid waste disposal fa-  
20 ility submitting a complete application prior to the  
21 initial adoption of the capacity needs analysis shall  
22 submit such information as the board may require to  
23 demonstrate that the proposed facility is sized to  
24 meet a clearly demonstrated state need for additional  
25 disposal capacity. Renewal of a license granted pri-  
26 or to the initial adoption of the capacity needs  
27 analysis shall be conditioned on a finding by the  
28 board of consistency with the current capacity needs  
29 analysis.

30       §1310-F. Public and local participation

31               In addition to provisions for public participa-  
32 tion provided pursuant to Title 5, chapter 375, the  
33 following provisions shall apply to an application  
34 for a commercial solid waste disposal facility.

35               1. Notification. A person applying for a li-  
36 cence under this article shall give, at the same  
37 time, written notice to the municipal officers of the  
38 municipality in which the proposed facility will be  
39 located and shall publish notice of the application  
40 in a newspaper of general circulation in the area.



