

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1455

H.P. 1033

House of Representatives, February 23, 1999

An Act Regarding the Spreading of Sludge.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative JONES of Pittsfield.
Cosponsored by Senator LIBBY of York and
Representatives: CROSS of Dover-Foxcroft, LABRECQUE of Gorham, MARTIN of Eagle
Lake, SULLIVAN of Biddeford, TOBIN of Dexter, Senator: LaFOUNTAIN of York.

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

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4 **Sec. 1. 38 MRSA §1304, sub-§1**, as amended by PL 1989, c. 585,
Pt. E, §5, is further amended to read:

6 **1. Rules.** Subject to the Maine Administrative Procedure
Act, Title 5, chapter 375, the board may adopt, and amend and
8 shall enforce rules as--it--deems necessary to govern waste
management, including the location, establishment, construction
10 and alteration of waste facilities as the facility affects the
public health and welfare or the natural resources of the State.
12 The rules shall must be designed to minimize pollution of the
State's air, land and surface and ~~ground--water~~ groundwater
14 resources, prevent the spread of disease or other health hazards,
prevent contamination of drinking water supplies and protect
16 public health and safety. In adopting these rules, the board
shall also consider economic impact, technical feasibility and
18 such differences as are created by population, hazardous or solid
waste, sludge or septage volume and geographic location.
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22 **Sec. 2. 38 MRSA §1304, sub-§13**, as amended by PL 1995, c. 656,
Pt. A, §23, is further amended to read:

24 **13. Innovative disposal and utilization.** Recognizing that
environmentally suitable sites for waste disposal are in limited
26 supply and represent a critical natural resource, the
commissioner may investigate and implement with the approval of
28 the board innovative programs for managing, utilizing and
disposing of solid waste. Innovative programs may include
30 agricultural and forest land spreading of wood-derived ash,
utilization of ash resulting from combustion of municipal solid
32 waste, paper mill sludges, municipal waste--water wastewater
treatment plant sludges and the composting of yard wastes. The
34 office shall first determine that the proposed innovative
disposal and waste management programs are consistent with the
36 state plan. The commissioner shall review proposed innovative
programs for each waste category and shall apply all controls
38 necessary to ensure the protection of the environment and public
health consistent with this chapter. The department may not
40 issue a license for the land application of any sludge that
contains biomedical waste. The board may adopt application
42 review procedures designed to review individual applications and
their individual waste sources with prior approval of classes of
44 disposal or utilization sites. The board shall adopt provisions
for municipal notification prior to use of individual utilization
46 sites.

48 **Sec. 3. 38 MRSA §1310-N, sub-§1**, as amended by PL 1997, c.
393, Pt. A, §47, is further amended to read:

50 **1. Licenses.** The department shall issue a license for a
52 waste facility whenever it finds that:

2 A. The facility will not pollute any water of the State,
4 contaminate the ambient air, constitute a hazard to health
or welfare or create a nuisance;

6 B. In the case of a disposal facility other than a facility
8 owned by the State, the facility provides a substantial
public benefit, determined in accordance with subsection
3-A; and

10 C. In the case of a disposal facility, the volume of the
12 waste and the risks related to its handling and disposal
14 have been reduced to the maximum practical extent by
recycling and source reduction prior to disposal. This
16 paragraph does not apply to the expansion of a commercial
solid waste disposal facility that accepts only special
18 waste for landfilling.

20 For purposes of this subsection, the term "nuisance" means a use
22 of property or course of conduct that interferes with the legal
rights of others by causing damage, annoyance or inconvenience,
or that operates against public health and safety.

24 **Sec. 4. 38 MRSA §1310-N, sub-§2-G is enacted to read:**

26 2-G. Set-back requirement for land application and storage
28 of sludge. The department may not issue a license for a sludge
land application site or storage facility that is within 1,000
feet of any abutting property boundary.

30 **Sec. 5. 38 MRSA §1310-U, 2nd ¶,** as amended by PL 1995, c. 126,
32 §2, is further amended to read:

34 Under the municipal home rule authority granted by the
36 Constitution of Maine, Article VIII, Part Second and Title 30-A,
section 3001, municipalities, except as provided in this section,
38 may enact ordinances with respect to solid waste facilities that
contain standards the municipality finds reasonable, including,
40 without limitation, conformance with federal and state solid
waste rules; fire safety; traffic safety; levels of noise heard
42 outside the facility; distance from existing residential,
commercial or institutional uses; ~~ground--water~~ groundwater
44 protection; surface water protection; erosion and sedimentation
control; and compatibility of the solid waste facility with local
46 zoning and land use controls, provided that the standards are not
more strict than those contained in this chapter and in chapter
48 3, subchapter I, articles 5-A and 6 and the rules adopted under
these articles. Municipal ordinances must use definitions
50 consistent with those adopted by the board. For purposes of this
section, the term "reasonable" means having the capability to
uphold the drawing of conclusions through sound facts and
52 evidence and being supported by a municipal majority through

means of a special assembly of citizens within the municipality's borders.

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SUMMARY

This bill amends the laws relating to sludge and other wastes in several ways. It requires the Board of Environmental Protection to enforce rules necessary to govern waste management. It explicitly prohibits the Department of Environmental Protection from issuing a license for the land application of sludge that contains biomedical waste. It defines the term "nuisance" for the purposes of the law relating to the licensing of waste facilities. It prohibits the department from issuing a license for a sludge land application site or storage facility that is within 1,000 feet of any abutting property boundary. Finally, it defines the term "reasonable" for the purposes of the law authorizing municipalities to establish standards for solid waste facilities.