

# MAINE STATE LEGISLATURE

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**NATURAL RESOURCES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 519, L.D. 760, Bill, "An Act To Improve Landfill Capacity"

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'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.

R. S. S.

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

8 (5) If the department amends the rules relating to fuel quality for construction  
9 and demolition wood fuel and the amendment adversely affects the ability of a  
10 solid waste processing facility to meet the 50% standard in subparagraph (2), the  
11 department may not enforce the requirements of subparagraph (2) against that  
12 processing facility and the department shall submit to the joint standing  
13 committee of the Legislature having jurisdiction over natural resources matters a  
14 report relating to the rule change. The joint standing committee of the  
15 Legislature having jurisdiction over natural resources matters may submit  
16 legislation related to the report.

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

22 **Sec. A-2. Processing facility recycling rulemaking; status report.**

23 **1. Report.** By February 1, 2010, the Department of Environmental Protection shall  
24 submit to the Joint Standing Committee on Natural Resources a report relating to the  
25 development and status of rules that define the term "to the maximum extent practicable"  
26 as that term is used in the Maine Revised Statutes, Title 38, section 1310-N, subsection  
27 5-A, paragraph B, subparagraph (2). In connection with the report, the department shall  
28 investigate current recycling technologies and practices as they relate to the creation of  
29 fine material, known as "fines," that is qualified to be used as alternative daily cover at  
30 landfills under Title 38, section 1310-N, subsection 5-A, paragraph B, subparagraph (2).  
31 The results of that investigation must be included in the department's report. The Joint  
32 Standing Committee on Natural Resources may submit legislation related to the report to  
33 the Second Regular Session of the 124th Legislature.

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

38 **PART B**

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

40 **Sec. 10. Duties and responsibilities for managing solid waste.** By July 31,  
41 2008, the Department of Environmental Protection and the Executive Department, State  
42 Planning Office, referred to in this section as "the agencies," shall develop a system by

1 which solid waste management activities are performed by them. By August 30, 2008,  
2 the agencies shall implement elements of the system that do not require statutory changes.  
3 By January 5, 2009, the agencies shall submit a report on the system to the joint standing  
4 committee of the Legislature having jurisdiction over natural resources matters. The  
5 report must identify any legislative changes that are necessary for the implementation of  
6 the system and must report on the elements of the system that have been implemented by  
7 the agencies. The report must also include an analysis of the agencies' respective ability  
8 to control the different and various waste streams flowing into state-owned landfills. The  
9 committee may report out legislation relating to the report to the ~~First~~ Second Regular  
10 Session of the 124th Legislature.

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

17 1. Whether funding for management and oversight of state-owned landfills is  
18 sufficient to carry out the legislative intent of the Maine Revised Statutes, Title 38,  
19 chapter 13;

20 2. Whether management or operational modifications should be instituted at the  
21 state-owned landfill; and

22 3. Whether amendments to the operating services agreement between the State and  
23 the operator of the state-owned landfill should be negotiated to eliminate fuel services  
24 agreements and caps on tipping fees and to establish annual maximum fill rates.

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

29 **PART C**

30 **Sec. C-1. 38 MRSA §1310-X, sub-§3, ¶B,** as amended by PL 1995, c. 68, §1, is  
31 repealed and the following enacted in its place:

32 B. The department determines that the proposed expansion is contiguous with the  
33 existing facility and:

34 (1) Is located on property owned on December 31, 1989 by the licensee or by a  
35 corporation or other business entity under common ownership or control with the  
36 licensee; or

37 (2) For a commercial solid waste disposal facility that is a landfill that is not  
38 under order or agreement to close, is located on property owned by the licensee;  
39 and'

SUMMARY

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This amendment replaces the bill and it does the following.

Part A makes changes to the laws governing processing facilities that generate residue requiring disposal. Current law requires processing facilities that generate residue requiring disposal to recycle waste accepted at the facility "to the maximum extent practicable," but in no case at a rate less than 50%. Current law also requires the Department of Environmental Protection to adopt major substantive rules relating to processing facility recycling and prohibits the department from enforcing the recycling requirements of the law until the rules defining "to the maximum extent practicable" are in effect. The amendment changes the rules from major substantive to routine technical and removes the provision that prohibits the Department of Environmental Protection from enforcing the recycling requirements until the rules defining "to the maximum extent practicable" are in effect. The amendment also requires the Department of Environmental Protection to submit a report to the Joint Standing Committee on Natural Resources by February 1, 2010 relating to the development and status of the rules that define "to the maximum extent practicable" and authorizes the committee to submit legislation to the Second Regular Session of the 124th Legislature. The amendment also requires the Department of Environmental Protection to adopt rules that define "to the maximum extent practicable" by April 1, 2010.

Part B changes the session at which the Joint Standing Committee on Natural Resources is authorized to report out legislation relating to duties and responsibilities of the Department of Environmental Protection and the Executive Department, State Planning Office regarding solid waste management duties and responsibilities. Current law authorizes the committee to report out legislation to the First Regular Session of the 124th Legislature; the amendment authorizes the committee to report out legislation to the Second Regular Session of the 124th Legislature. The amendment also requires the State Planning Office to conduct a review and assessment of the State's solid waste management policy with a focus on state-owned landfill funding, management and operation and authorizes the Joint Standing Committee on Natural Resources to submit legislation to the Second Regular Session of the 124th Legislature.

Part C amends the law that prohibits expansion of commercial solid waste disposal facilities by authorizing a commercial landfill that is not under an order or agreement to close to expand if the proposed expansion is contiguous with the existing facility and is located on property owned by the licensee. Current law requires that the proposed expansion be contiguous with the existing facility and be 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.

FISCAL NOTE REQUIRED

(See attached)



# 124th MAINE LEGISLATURE

LD 760

LR 1518(02)

## An Act To Improve Landfill Capacity

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Natural Resources

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Fund

#### Fiscal Detail and Notes

Additional costs to the State Planning Office and the Department of Environmental Protection associated with conducting a review and assessment of the State's solid waste management policy and other administrative duties can be absorbed within existing budgeted resources.