

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 310

H.P. 756 - L.D. 1023

An Act to Amend and Clarify the Solid Waste Management Laws

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

PART A

Sec. A-1. 32 MRSA §1734, sub-§2, as amended by PL 1991, c. 177, §1 and affected by §2, is further amended to read:

2. Health and safety requirements; feasibility; post-consumer materials. The manufacturer, supplier or distributor petitions the agency for an exemption for a particular package or packaging component and the agency grants an exemption for one or more of the following reasons.

A. The package or packaging component contains lead, cadmium, mercury or hexavalent chromium added in the manufacturing, forming, printing or distribution process in order to comply with health or safety requirements of state or federal law.

B. There is no feasible alternative to the use of lead, cadmium, mercury or hexavalent chromium in the package or packaging component. For the purposes of this section, "no feasible alternative" means a use in which the regulated substance is essential to the protection, safe handling or function of the package's contents.

C. The addition of post-consumer materials causes the package or packaging component to exceed the maximum concentration levels set forth in section 1733, subsection 3.

For packages or packaging components exempted under paragraph A or B, a 2-year exemption may be granted and that exemption may be renewed for an additional 2 years. An exemption granted under paragraph C ~~expires 4 years after the effective date of this chapter~~ is valid for 6 years; or

Sec. A-2. 32 MRSA §1735, as enacted by PL 1989, c. 849, §1, is amended to read:

§1735. Certificate of compliance

A certificate of compliance is a document developed by a manufacturer and ~~filed with the agency furnished to its purchasers~~ that attests that one or more packages or packaging components ~~meets~~ meet the standards established in section 1733 or ~~is~~ are exempt under the provisions of section 1734. If compliance is achieved

under the exemptions provided in section 1734, the certificate must state the specific basis upon which the exemption is claimed. A certificate of compliance must be signed by an authorized official of the manufacturer. A certificate of compliance may cover more than one type of package or packaging component as long as they are separately identified.

1. New or reformulated packaging. If the manufacturer reformulates or creates a new package or packaging component, the manufacturer shall ~~provide the agency~~ furnish its purchasers with an amended or new certificate of compliance for the reformulated or new package or packaging component.

2. Presentation of certificates. Each manufacturer shall furnish the agency, ~~at the agency's request~~, with ~~an original~~ a copy of any certificate of compliance and each manufacturer or supplier shall furnish, at the agency's request, copies of a certificate of compliance for distribution to the public.

Sec. A-3. 38 MRSA §2123, sub-§7, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-4. 38 MRSA §2141, as amended by PL 1991, c. 644, §§2 to 4, is repealed.

Sec. A-5. 38 MRSA §2142 is enacted to read:

§2142. Advertising and marketing claims; waste reduction and recycling

A person who labels, advertises or promotes a product in violation of guidelines for the use of environmental marketing claims published by the Federal Trade Commission in 16 Code of Federal Regulations, Part 260 (1993), as amended, commits a violation of the Maine Unfair Trade Practices Act.

PART B

Sec. B-1. 38 MRSA c. 24, sub-c. V, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER V**HOST COMMUNITY COMPENSATION AND FACILITY OVERSIGHT**

Sec. B-2. 38 MRSA §2170 is enacted to read:

§2170. Host community benefits; application limited to facilities owned or operated by the agency

This subchapter applies only to solid waste disposal facilities owned or operated by the agency. Whenever in this subchapter the term "solid waste disposal facility" or "facility" is used, those terms may be construed only to mean a solid waste disposal facility owned or operated by the agency.

Sec. B-3. 38 MRSA §2171, first ¶, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

The municipal officers of each municipality identified by the Facility Siting Board as a ~~proposed potential site for a waste disposal facility or a facility which produces refuse-derived fuel under this chapter~~ and each contiguous municipality ~~which that~~ may be affected by the construction or operation of that facility shall jointly establish a single citizen advisory committee within 60 days of notification pursuant to section 2155.

Sec. B-4. 38 MRSA §2171, sub-§1, as amended by PL 1989, c. 869, Pt. A, §12, is further amended to read:

1. Membership. The committee must be comprised of citizens from each affected municipality, appointed by the municipal officers, including, but not limited to: a municipal health officer; a municipal officer; and at least 3 additional residents of the municipality, including abutting property owners and residents potentially affected by pollution from the ~~proposed~~ facility. In addition, each committee may include members representing any of the following interests: environmental and community groups; labor groups; professionals with expertise relating to landfills or incinerators; experts in the areas of chemistry, epidemiology, hydrogeology and biology; and legal experts.

Sec. B-5. 38 MRSA §2171, sub-§3, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §291, is further amended to read:

3. Responsibilities. Each committee established under this section ~~shall have the authority to may~~:

A. Review proposed contracts, site analyses, applications and other documents relating to the location, construction, permitting and operation of the ~~proposed~~ facility;

B. Hold periodic public meetings to solicit the opinions of residents concerning the ~~proposed~~ facility and any permit applications, contracts or other provisions relating to the facility and the regional plan;

C. Provide the ~~agency project developer~~ and department with any alternative contract provisions, permit conditions, plans or procedures it ~~deems~~ considers appropriate; and

D. Serve as a liaison between the community and the ~~agency~~; project developer or the commissioner to facilitate communications during the development and operation of the facility, and provide residents with updated information about the project, including providing explanations of any technical terms.

Sec. B-6. 38 MRSA §2172, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2172. Dispute resolution

A host municipality may establish a process, including, but not limited to, negotiation, mediation and arbitration to resolve disputes and to negotiate additional rights and benefits ~~relating~~ related to the siting and operation of a solid waste disposal ~~or refuse-derived fuel processing~~ facility within the municipality. The citizen advisory committee ~~shall~~ must be consulted and shall assist in the development and implementation of any process established under this section. At the option of the municipality, the Chair of the Board of Environmental Protection may appoint a neutral mediator to resolve disputes. The municipality ~~shall be~~ is eligible for grants from the agency to fund dispute resolution programs under this section related to the siting and operation of a solid waste disposal facility.

Sec. B-7. 38 MRSA §2173, first ¶, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

A municipality may adopt a local ordinance authorizing the municipal officers to issue a local permit containing the same findings, conclusions and conditions contained in the license issued by the department for a solid waste disposal facility ~~owned by the agency or a regional association and~~ located within the municipality's jurisdiction. The municipal officers may also attach to the permit additional conditions for the operation of the solid waste disposal facility on any issues not specifically addressed in any condition of the department's license. These conditions may not unreasonably restrict the operation of the facility and must be attached to the local permit by the municipal officers within 90 days of issuance of the department's license or within 30 days of a final decision by the department to relicense the facility.

Sec. B-8. 38 MRSA §2174, sub-§§2 to 4, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §292, are further amended to read:

2. Information. The host municipality of a solid waste disposal facility ~~owned by the agency or a regional association shall have~~ has a right to all information from the department and the ~~solid waste disposal facility operator agency~~, pursuant to Title 1, chapter 13, subchapter I. All information provided under this subsection must be made available to the citizen advisory committee and the public by the host municipality.

A. The commissioner shall provide all of the following information to the municipal officers of the host municipality:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

(2) Prompt notification of all enforcement or emergency orders for those facilities, including, but not limited to, abatement orders, cessation orders, final civil penalty assessments, consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data collected by the commissioner at such facilities, including leachate and ash testing results, within 5 working days after complete laboratory analysis becomes available to the commissioner; and

(4) Copies of all analyses of the data under subparagraph (3).

B. The operator of the facility shall provide the host municipality copies of all air, soil and water quality monitoring data, including leachate and ash testing results, conducted by or on behalf of the operator, within 5 days after that information becomes available to the operator.

C. The municipality shall provide all of the following information to the commissioner:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

(2) Prompt notification of all enforcement or emergency orders for those facilities, including, but not limited to, abatement orders, cessation orders, final civil penalty assessments, consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data collected by the municipality at such facilities, including leachate and ash testing results, within 5 working days after complete laboratory analysis becomes available to the municipality; and

(4) Copies of all analyses of the data under subparagraph (3).

3. Inspection; emergency orders. A certified inspector is authorized to enter property of the agency or ~~any regional association~~ within the inspector's jurisdiction, inspect records required by the department, take samples and conduct inspections in accordance with departmental rules applicable to employees of the department. A certified inspector may order the ~~operator of the facility~~ agency to cease any operation or activity at the facility that constitutes an immediate threat to public health or safety or to the environment. The inspector shall notify the commissioner and the municipal officers of the host municipality within 2 hours of issuing such an order.

4. Commissioner inspections. Whenever any host municipality notifies the commissioner of an order issued pursuant to a local permit requirement under section 2173 and gives the commissioner reason to believe that any solid waste disposal facility ~~owned by the agency or regional association~~ is in violation of any law or regulation administered by the department, or any order or the condition of any permit issued pursuant to any law or rule administered by the department, the commissioner shall promptly conduct an inspection of the facility.

If the commissioner finds that there is insufficient information to believe that there is a violation, the commissioner shall, within 10 working days of a municipality's request for an inspection, provide to the municipality a written explanation of the commissioner's decision not to conduct an inspection.

Sec. B-9. 38 MRSA §2175-A, as enacted by PL 1991, c. 794, §7, is amended to read:

§2175-A. Property value offset

Owners of property whose, the value of which has been affected by ~~an agency-operated or agency-approved a solid waste disposal facility licensed under chapter 13,~~ are eligible for reimbursement from the agency for loss in property value directly attributable to the construction and operation of the facility. The agency shall adopt rules to establish the formula and procedure for reimbursement, including, without limitation, definition of the impact area, a process for establishing baseline real estate values, a time frame within which the property value offset program will be in effect and an accounting of real estate trends in the area.

Sec. B-10. 38 MRSA §2176, first ¶, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

In addition to payment in lieu of taxes provided in section 2105, the agency shall make impact payments to a municipality in which ~~an agency-owned~~ a solid waste ~~landfill disposal~~ facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the community involved or by the State Tax Assessor. The agency shall base its impact payments on measurable criteria including, without limitation:

Sec. B-11. 38 MRSA §2176, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. Roads. Improvement, maintenance and repair of local roads directly affected by traffic to and from ~~an agency-owned landfill~~ the facility;

Sec. B-12. 38 MRSA §2177, as amended by PL 1991, c. 517, Pt. B, §14, is further amended to read:

§2177. Water supply monitoring and protection

Upon written request from persons owning land contiguous to a solid waste ~~landfill approved under subchapter IV disposal facility~~, the ~~operator of the landfill~~ agency shall have quarterly sampling and analysis conducted of private water supplies used by the requestors for drinking water. The sampling and analysis must be conducted in a manner specified by and that meets criteria developed by the department.

~~Any person owning or operating a solid waste landfill that~~ If a facility adversely affects a public or private water supply by pollution, degradation, diminution or other means that result in a violation of the state drinking water standards as determined by the commissioner, the agency shall restore the affected supply at no cost to the ~~owner~~ consumer or replace the affected supply with an alternative source of water that is of like quantity and quality to the original supply at no cost to the ~~owner~~ consumer.

1. Extent of analysis. Water supplies must be analyzed for all parameters or chemical constituents determined by the commissioner to be indicative of typical contamination from solid waste ~~landfills~~ disposal facilities. The laboratory performing the sampling and analysis shall provide written copies of sample results to the ~~landfill owner~~ agency, the landowner and to the commissioner.

2. Additional sampling required. If the analysis indicates possible contamination from a solid waste ~~landfill~~ disposal facility, the commissioner shall conduct, or require the ~~landfill operator to have the laboratory~~ agency to conduct, additional sampling and analysis to determine more precisely the nature, extent and source of contamination. The commissioner shall, if necessary, require this sampling beyond the boundaries of the contiguous property.

3. Written notice of rights. On or before December 1, 1989, for permits issued under this chapter prior to October 1, 1989, and at or before the time of permit issuance for permits issued under this chapter after October 1, 1989, the ~~operator of each waste landfill~~ agency shall provide owners of contiguous land with written notice of their rights under this section on a form prepared by the commissioner.

PART C

Sec. C-1. 38 MRSA §1705, sub-§12, as enacted by PL 1983, c. 820, §2, is amended to read:

12. Revenues. "Revenues" means the proceeds of bonds, all revenues, rates, tolls, assessments, rents, tipping fees, transportation charges and other charges and receipts derived by the district from the operation of a waste facility and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of prop-

erties, and ~~shall~~ **must** include proceeds from assessments where the power of assessment has been granted to the district under section ~~1754~~ 1755.

Sec. C-2. 38 MRSA §2202, sub-§3 is enacted to read:

3. Payment. A person who delivers solid waste to a solid waste disposal facility shall pay all fees established under this article to the operator of the solid waste disposal facility.

Sec. C-3. 38 MRSA §2204, sub-§3, as enacted by PL 1991, c. 517, Pt. B, §17, is amended to read:

3. Imported municipal solid waste. To support those regulatory and administrative costs associated with imported municipal solid wastes, an administrative fee of \$4 per ton is assessed on any municipal solid waste originating outside the State and delivered to a commercial solid waste disposal facility or solid waste disposal facility owned by the agency or a regional association for disposal.

See title page for effective date.

CHAPTER 311

H.P. 875 - L.D. 1189

An Act to Establish a State Trauma Care System

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

Sec. 1. 5 MRSA §12004-I, sub-§49-B is enacted to read:

49-B.	<u>State Trauma</u>	<u>Not</u>	<u>32 MRSA</u>
<u>Human</u>	<u>Prevention</u>	<u>Authorized</u>	<u>§87-A</u>
<u>Services</u>	<u>and Control</u>		
	<u>Advisory</u>		
	<u>Committee</u>		

Sec. 2. 32 MRSA §81-A, last ¶, as amended by PL 1989, c. 857, §60, is further amended to read:

It is the intent of the Legislature to designate that a central agency be responsible for the coordination and integration of all state activities concerning emergency medical services and the overall planning, evaluation, coordination, facilitation and regulation of emergency medical services systems. Further, the Legislature finds that the provision of prompt, efficient and effective emergency medical care, a well-coordinated trauma care system, effective communication between prehospital care providers and hospitals and the safe handling and transportation of the sick and injured are key elements of an emergency medical services system. This chapter is in-