

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

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FIRST SPECIAL SESSION
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JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

3. General requirement for vehicles. An owner or operator of a commercial motor vehicle may not cause or permit such a vehicle to idle for more than 5 minutes in any 60-minute period except as provided in subsection 4. An owner or operator of a gasoline-powered motor vehicle, except a private passenger vehicle, may not cause or permit such a vehicle to idle for more than 5 minutes in any 60-minute period except as provided in subsection 4.

4. Exemptions. Subsection 3 does not apply for the period or periods when:

A. A motor vehicle idles while forced to remain motionless because of traffic or an official traffic control device or signal or at the direction of a law enforcement official;

B. A motor vehicle idles when operating a defroster, heater, air conditioner or installing equipment solely to prevent a safety or health emergency and not as part of a rest period;

C. A police, fire, ambulance, public safety, military or other emergency or law enforcement vehicle idles while being used in the course of official business;

D. The primary propulsion engine idles for maintenance, servicing, repair or diagnostic purposes if idling is required for such an activity;

E. A motor vehicle idles as part of a state or federal inspection to verify that all equipment is in good working order if idling is required as part of the inspection;

F. Idling of the primary propulsion engine is necessary to power work-related mechanical or electrical operations other than propulsion, including, but not limited to, mixing, dumping or processing cargo, straight truck refrigeration or to protect prescription or over-the-counter drug products. This exemption does not apply when idling for cabin comfort or to operate nonessential on-board equipment;

G. A utility vehicle idles during electric utility service restoration operations or when needed to protect temperature-sensitive electrical testing equipment;

H. An armored vehicle idles when a person remains inside the vehicle to guard the contents or the vehicle is being loaded or unloaded;

I. An occupied commercial motor vehicle with a sleeper berth compartment idles for purposes of air conditioning or heating during a rest or sleep period;

J. An occupied commercial motor vehicle idles for purposes of air conditioning or heating while waiting to load or unload;

K. A passenger bus idles a maximum of 15 minutes in any 60-minute period to maintain passenger comfort while nondriver passengers are on board;

L. A motor vehicle idles due to mechanical difficulties over which the operator has no control if the vehicle owner submits the repair paperwork or product receipt by mail within 30 days to the appropriate authority verifying that the mechanical problem has been fixed. If no repair paperwork is submitted within 30 days, the vehicle owner is subject to penalties as provided in subsection 5;

M. A motor vehicle idles for not longer than an additional 10 minutes beyond the limit imposed in subsection 3 to operate heating equipment when the ambient air temperature is 32 degrees Fahrenheit or below; or

N. A motor vehicle idles as needed for the purpose of providing heat when the ambient air temperature is below 0 degrees Fahrenheit.

5. Penalties. A person who violates this section is subject to the following penalties.

A. A person who violates this section commits a traffic infraction under Title 29-A, chapter 23, subchapter 6.

B. A vehicle operator who violates this section after having previously violated this section commits a civil violation for which a fine of \$150 must be adjudged. A vehicle owner or a person who owns a location where a commercial motor vehicle loads or unloads who violates this section after having previously violated this section commits a civil violation for which a fine of \$500 must be adjudged.

See title page for effective date.

CHAPTER 583 H.P. 610 - L.D. 810

An Act To Improve Solid Waste Management

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

Sec. 1. 38 MRSA §1303-C, sub-§32-A is enacted to read:

32-A. Solid waste processing facility. "Solid waste processing facility" means a land area, structure, equipment, machine, device, system or combination thereof, other than an incineration facility, that is operated to reduce the volume or change the chemical or physical characteristics of solid waste. "Solid waste processing facility" includes but is not limited to a

facility that employs shredding, baling, mechanical and magnetic separation or composting or other stabilization technique to reduce or otherwise change the nature of solid waste.

Sec. 2. 38 MRSA §1310-N, sub-§1, ¶C, as repealed and replaced by PL 1997, c. 393, Pt. A, §47, is amended to read:

C. In the case of a disposal facility or a solid waste processing facility that generates residue requiring disposal, the volume of the waste and the risks related to its handling and disposal have been reduced to the maximum practical extent by recycling and source reduction prior to disposal. This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling or to any other facility exempt from the requirements of subsection 5-A. The department shall find that the provisions of this paragraph are satisfied when the applicant demonstrates that the applicable requirements of subsection 5-A have been satisfied.

Sec. 3. 38 MRSA §1310-N, sub-§5, as repealed and replaced by PL 1997, c. 393, Pt. A, §48, is repealed.

Sec. 4. 38 MRSA §1310-N, sub-§5-A is enacted to read:

5-A. Recycling and source reduction determination. The requirements of this subsection apply to solid waste disposal facilities and to solid waste processing facilities that generate residue requiring disposal.

A. An applicant for a new or expanded solid waste disposal facility shall demonstrate that:

(1) The proposed solid waste disposal facility will accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by this chapter and other provisions of state law. The department shall attach this requirement as a standard condition to the license of a solid waste disposal facility governing the future acceptance of solid waste at the proposed facility; and

(2) The applicant has shown consistency with the recycling provisions of the state plan.

This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling.

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 resi-

due 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.

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

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

The department shall adopt rules to implement the provisions of this paragraph. Rules adopted pur-

suant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The department may not enforce the recycling requirements of subparagraph (2) prior to the effective date of rules that define "to the maximum extent practicable."

Sec. 5. 38 MRSA §1310-R, sub-§2, ¶A, as amended by PL 1989, c. 585, Pt. E, §30 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §246, is further amended to read:

A. The department shall apply the provisions of section 1310-N, subsection ~~§ 5-A~~, paragraph A, subparagraph (1) when relicensing any solid waste disposal facility, except that, to the extent that waste disposal contracts in effect on June 29, 1987, are inconsistent with section 1310-N, subsection ~~§ 5-A~~, paragraph A, ~~in which case subparagraph (1)~~, those provisions apply at the expiration of the term of those contracts without consideration of any renewals or extensions of those contracts.

Sec. 6. 38 MRSA §1310-R, sub-§2, ¶C, as amended by PL 1989, c. 585, Pt. E, §30, is further amended to read:

C. The provisions of section 1310-N, subsection ~~§ 5-A~~, paragraph ~~B~~ A, subparagraph (2) do not apply to the relicensing of any solid waste disposal facility licensed prior to June 29, 1987.

Sec. 7. 38 MRSA §2101, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. Priorities. It is the policy of the State to plan for and implement an integrated approach to solid waste management for solid waste generated in this State and solid waste imported into this State, which shall must be based on the following order of priority:

- A. Reduction of waste generated at the source, including both amount and toxicity of the waste;
- B. Reuse of waste;
- C. Recycling of waste;
- D. Composting of biodegradable waste;
- E. Waste processing ~~which that~~ reduces the volume of waste needing land disposal, including incineration; and
- F. Land disposal of waste.

It is the policy of the State to use the order of priority in this subsection as a guiding principle in making decisions related to solid waste management.

Sec. 8. 38 MRSA §2124-A, as amended by PL 2007, c. 192, §5, is further amended to read:

§2124-A. Solid waste generation and disposal capacity report

By January 1, 2008 and annually thereafter, the office shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters, the Governor and the department setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

The report submitted under this section must include an analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the office determines that a decline in available landfill capacity has generated or has the potential to generate supracompetitive prices, the office shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.

Beginning on January 1, 2009 and every odd-numbered year thereafter, the report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill. The January 2009 report must also include an analysis of the solid waste disposal needs of the State as of January 1, 2009 for the next 3, 5 and 10 years.

Beginning on January 1, 2010 and every even-numbered year thereafter, the report submitted under this section must include an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.

The joint standing committee of the Legislature having jurisdiction over solid waste matters may report out legislation related to the report submitted pursuant to this section.

Sec. 9. Solid waste odor management report. The Department of Environmental Protection shall prepare a report on solid waste odor management. The report must include an examination of solid waste odor regulation from the point of disposition of the waste through disposal of the waste at a solid waste disposal facility, including odor regulation related to transportation of the waste. The report must also include the status of federal weight restrictions on Interstate 95. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 5, 2009.

Sec. 10. Duties and responsibilities for managing solid waste. By July 31, 2008, the Department of Environmental Protection and the Executive Department, State Planning Office, referred to in this section as "the agencies," shall develop a system by which solid waste management activities are performed by them. By August 30, 2008, the agencies shall implement elements of the system that do not

require statutory changes. By January 5, 2009, the agencies shall submit a report on the system to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must identify any legislative changes that are necessary for the implementation of the system and must report on the elements of the system that have been implemented by the agencies. The report must also include an analysis of the agencies' respective ability to control the different and various waste streams flowing into state-owned landfills. The committee may report out legislation relating to the report to the First Regular Session of the 124th Legislature.

Sec. 11. Solid waste disposal facility recycling standards; report. By January 15, 2009, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report detailing a method for setting mandatory recycling standards for all solid waste disposal facilities.

See title page for effective date.

CHAPTER 584

H.P. 1506 - L.D. 2126

An Act To Minimize Carbon Dioxide Emissions from New Coal-powered Industrial and Electrical Generating Facilities in the State

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

Sec. 1. 38 MRSA §585-K is enacted to read:

§585-K. Greenhouse gas emission standards; moratorium

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Coal gasification facility" means a facility that uses a process other than the biological degradation of waste to convert carbonaceous materials into a synthesis gas or a product made from synthesis gas, including, without limitation, electricity, liquid fuels and chemicals.

B. "Greenhouse gas" has the same meaning as set forth in section 574.

2. Greenhouse gas emission standards. The board shall establish by rule, and may thereafter amend, standards for the emission of greenhouse gases derived from coal gasification facilities that commence operations after August 1, 2008. Rules established

pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Moratorium. Between the effective date of this subsection and the earlier of the effective date of rules authorized pursuant to subsection 2 and August 1, 2011, the department may not issue any license or permit to a coal gasification facility that is not licensed under this chapter prior to August 1, 2008.

4. Net emissions and carbon capture and sequestration. In calculating greenhouse gas emissions, carbon dioxide that is captured and used for a commercial purpose or that is permanently disposed of in geological formations in compliance with all applicable laws and rules may not be counted as emissions from the emission source.

5. Air emission license requirements apply. The licensing requirements in section 590 and the prohibition in section 591 apply with regard to the standards established by the board pursuant to subsection 2. The lack of ambient air quality standards for greenhouse gases does not supersede or invalidate this section.

6. Criteria and procedures. The criteria and procedures in sections 585 and 585-A govern the establishment of greenhouse gas emission standards under this section. Emission standards established pursuant to subsection 2 must be designed to achieve the goals of this chapter and chapter 3-A.

7. Construction; absence of limitation. Nothing in this section may be construed to limit the authority of the department or any agency or any political subdivision of the State to regulate any pollutant or air contaminant or to establish emission standards pursuant to section 585.

Sec. 2. 38 MRSA §591, first ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §166, is further amended to read:

No person may discharge air contaminants into ambient air within a region in such manner as to violate ambient air quality standards established under this chapter or emission standards established pursuant to section 585 ~~or section~~, 585-B or 585-K.

Sec. 3. Major substantive rules. Major substantive rules that are provisionally adopted pursuant to the Maine Revised Statutes, Title 38, section 585-K must be submitted to the Legislature by January 5, 2011 for review by the joint standing committee of the Legislature having jurisdiction over natural resources matters.

See title page for effective date.