

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND NINETEEN

H.P. 94 - L.D. 112

**An Act To Implement Changes to Maine's Solid Waste Laws Pursuant to a  
Review of the State Waste Management and Recycling Plan**

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

**PART A**

**Sec. A-1. 38 MRSA §1303-C, sub-§1-C**, as enacted by PL 2007, c. 338, §1 and affected by §5 and enacted by c. 414, §1, is amended to read:

**1-C. Bypass.** "Bypass" means any solid waste that is destined for disposal, processing or beneficial use at a an operating solid waste facility but that cannot be disposed of, processed or beneficially used at that facility because of the facility's temporary malfunction, temporary insufficient capacity, temporary inability to process or burn, or temporary downtime or any other comparable reason. For the purposes of this subsection, "operating solid waste facility" means a licensed solid waste facility that is fully operational at the time that the malfunction, insufficient capacity, inability to process or burn or downtime begins and that intends to resume full operation at the time that the malfunction, insufficient capacity, inability to process or burn or downtime ends.

**Sec. A-2. 38 MRSA §2152-A** is enacted to read:

**§2152-A. State-owned solid waste disposal facilities; purpose, management and operation; disposal of municipal solid waste**

**1. Purpose of State-owned solid waste disposal facilities.** The Legislature finds that the purpose of State-owned solid waste disposal facilities is to ensure that adequate disposal capacity is available for the disposal of solid waste generated within the State through the development of new disposal capacity for anticipated state disposal capacity needs and the operation of existing facilities to address current state disposal capacity needs.

**2. Consistency with solid waste management hierarchy.** The Legislature intends that all aspects of the management and operation of State-owned solid waste disposal

facilities be conducted in a manner that maximizes alignment with the solid waste management hierarchy under section 2101.

The bureau, the operators of State-owned solid waste disposal facilities and the department shall ensure that the acceptance of waste at State-owned solid waste disposal facilities is consistent with the hierarchy and that options for the management of such waste that represent a higher priority on the hierarchy are not otherwise reasonably available.

**3. Disposal of municipal solid waste at State-owned solid waste disposal facilities; department authorization criteria; department limitation of disposal.** The Legislature intends that the State prioritize the disposal at State-owned solid waste disposal facilities of special wastes for which there are limited disposal options in the State and minimize the disposal at State-owned solid waste disposal facilities of non-bypass, unprocessed municipal solid waste. In accordance with this intent and with the provisions of this chapter and chapter 13, the department may:

A. Authorize the land disposal of non-bypass, unprocessed municipal solid waste at a State-owned solid waste disposal facility only when:

(1) A specific need for the disposal has been identified by the bureau and the operator of the facility;

(2) The disposal is consistent with the solid waste management hierarchy under section 2101, as determined by the department; and

(3) Options for the management of the waste that represent a higher priority on the hierarchy are not otherwise reasonably available, as determined by the department; and

B. Limit the volume of municipal solid waste disposed of at a State-owned solid waste disposal facility and the duration of such disposal through the imposition of such limitations under the facility's license.

**Sec. A-3. 38 MRSA §2156-A, sub-§1**, as amended by PL 2011, c. 655, Pt. GG, §43 and affected by §70, is further amended to read:

**1. Planning for development.** The bureau, in consultation with the department, shall plan for the development of facilities sufficient to meet anticipated unmet needs for municipal solid waste and special waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State. ~~The bureau, in consultation with the department, may plan for the development of facilities sufficient to meet needs for special waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State.~~

## **PART B**

**Sec. B-1. 38 MRSA §1310-B, sub-§2**, as amended by PL 2015, c. 250, Pt. C, §10, is further amended to read:

**2. Hazardous waste information and information on mercury-added products and electronic devices; chemicals; recyclables.** Information relating to hazardous

waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B, information relating to electronic devices submitted to the department under section 1610, subsection 6-A, information related to priority toxic chemicals submitted to the department under chapter 27 ~~or~~, information related to products that contain the "deca" mixture of polybrominated diphenyl ethers submitted to the department under section 1609 or information related to reporting on reportable recyclable materials submitted to the department under section 2145 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Conservation and Forestry and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

**Sec. B-2. 38 MRSA §2101-A, sub-§§4 and 5** is enacted to read:

**4. Recycling establishment.** "Recycling establishment" means an establishment engaged in the marketing, brokering or purchasing of reportable recyclable materials generated in the State. "Recycling establishment" does not include an establishment that directs all reportable recyclable materials it markets, brokers or purchases to brokers and purchasers that are located in the State.

**5. Reportable recyclable materials.** "Reportable recyclable materials" means any of the following categories of recyclable materials that are separated from household, commercial or institutional waste and that are delivered to a recycling establishment for recycling: glass; cardboard, paper and paper products; plastic and plastic products;

cartons, laminated materials and other packaging; nonferrous and ferrous metals, including white goods; textiles; and mixed streams of recyclable materials that include any combination of the materials listed in this subsection.

**Sec. B-3. 38 MRSA §2124-A, first ¶**, as amended by PL 2017, c. 376, §2, is further amended to read:

By January 1, ~~2020~~ 2021 and biennially thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environmental and natural resources matters and the Governor setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

**Sec. B-4. 38 MRSA §2133, sub-§7**, as amended by PL 2011, c. 655, Pt. GG, §33 and affected by §70, is further amended to read:

**7. Recycling progress reports.** Municipalities shall report ~~annually~~ biennially, on forms provided by the department, on their solid waste management and recycling practices. ~~The annual biennial report must include how much of each type of solid waste is generated and how that solid waste is managed~~ identify the options available to residents and businesses within the municipality for managing solid waste, including any provisions for the separate management of reportable recyclable materials and organic waste and the disposal of other municipal solid waste, including construction and demolition debris. The department shall assist ~~municipal reporting~~ municipalities in developing and tracking a municipal or regional recycling rate by developing a municipal waste stream management assessment model. The model must rely on actual waste data whenever possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

**Sec. B-5. 38 MRSA §2145** is enacted to read:

**§2145. Recycling reporting**

**1. Reporting requirement.** Beginning March 1, 2020 and annually thereafter, a recycling establishment shall report to the department regarding its recycling of reportable recyclable materials generated in the State. The report must be on a form provided by or a format approved by the department and must include:

- A. The business name, mailing address, physical address, e-mail address, contact person and telephone number of the recycling establishment;
- B. The amount in tons of each category of reportable recyclable materials, by generator, received by the recycling establishment; and
- C. The amount in tons of each category of reportable recyclable materials, by destination, shipped by the recycling establishment.

The report must specify the quantity of reportable recyclable materials required to be reported under paragraphs B and C delineated into distinct material types to the extent possible. If the report specifies the quantity of reportable recyclable materials as

determined using a volume-to-weight conversion formula, the report must include that conversion formula for review and approval by the department. The report may provide an aggregate quantity for multiple locations operated by a recycling establishment as long as the report specifically identifies each location used in determining the aggregate quantity.

The department shall establish reporting guidelines to ensure that reportable recyclable materials to be included in a report under this subsection are not counted more than once.

**2. Data aggregation.** The department shall aggregate data contained within the reports submitted under this section for the purpose of determining statewide quantities of reportable recyclable materials recycled.

**3. Confidentiality.** Information submitted to the department pursuant to this section may be designated as confidential by the submitting party in accordance with the provisions of section 1310-B and, if the information is so designated, the provisions of section 1310-B apply.