



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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GOVERNOR

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COMMISSIONER

To: Board of Environmental Protection
From: Paula M. Clark, Director, Division of Solid Waste Management, BRWM
Date: June 17, 2010
Subj: Adoption: Revisions to the Solid Waste Management Rules Concerning Recycling Rates at Solid Waste Processing Facilities – Chapters 400, 401 and 409

Statutory and Regulatory Reference

The regulatory framework for the rulemaking is the Maine Solid Waste Management Rules, 06-096 CMR 400 (General Provisions), 401 (Landfill Siting, Design and Operation), and 409 (Processing Facilities). 38 MRSA §1310-N(5-A)(B) directs the department to promulgate rules concerning recycling of waste at processing facilities.

Scope

The rules establish standards and requirements concerning rates of recycling at solid waste processing facilities that generate residue requiring disposal. The rule also establishes standards related to the use of construction and demolition debris processing residue as cover or grading material at landfills.

Process

This is a routine technical rulemaking. In addition to the required newspaper notice, copies of the rulemaking notice were mailed to persons on the department’s rulemaking subscription list, and on a list prepared by the Division of Solid Waste Management of persons with an interest in recycling at waste processing facilities. The proposed rules were posted to public hearing by the Board on January 7, 2010 and a public hearing was held on February 18. Following the hearing, the record was held open for written comment until March 1.

Description

The above cited statute required the department to adopt rules implementing new standards concerning rates of recycling at solid waste processing facilities. Statute requires that applicants for new or expanded solid waste processing facilities that will generate residue requiring disposal demonstrate that the facility will “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%.” These applicants must also demonstrate consistency with the recycling provisions of the State Recycling and Waste Management Plan. Existing solid waste processing facilities that generate

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residue requiring disposal must annually demonstrate consistency with the recycling standards in their annual reports to the department.

The rule establishes waste characterization requirements for wastes accepted by processing facilities and for residues that leave the facilities for disposal. Reporting requirements include waste characterization results, a demonstration that the recycling standard has been achieved, and an explanation/justification of the rate of residue disposal. The rule also includes specific standards and requirements related to the use of residues from the processing of construction and demolition debris (“CDD”) as cover or grading material at landfills. The statute specifically recognizes these uses as “recycling” for purposes of evaluating compliance with the recycling provisions of the law. The rule prescribes the circumstances and conditions under which CDD processing residues can be used for these purposes. These residues contain wallboard/gypsum which can contribute to the formation of hydrogen sulfide gas in landfills.

Response to Comments

Eight parties commented on the proposed rule revisions. Comments generally fell within one of the following categories: comments concerning new standards for the use of processing residues in landfills; comments regarding the definition of “maximum extent practicable” and its application; comments regarding new waste characterization and reporting requirements; and, miscellaneous general comments. Department responses to all comments received are contained in the attached basis statement and response to comments document. Several changes to the proposed rule were made in direct response to comments.

Department Recommendation

The department recommends that the Board adopt the proposed revisions to 06-096 Chapters 400, 401 and 409.

Estimated time of presentation

30 minutes