

38 §1310-N. SOLID WASTE FACILITY LICENSES

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No person may locate, establish, construct, expand the disposal capacity of or operate any solid waste facility unless approved by the department under the provisions of this chapter. When the proposed facility is located within the jurisdiction of the Maine Land Use Regulation Commission, in addition to any other requirement, the department shall require compliance with existing standards of the commission. [1993, c. 680, Pt. A, §37 (RPR).]

1. Licenses. The department shall issue a license for a waste facility whenever it finds that:

A. The facility will not pollute any water of the State, contaminate the ambient air, constitute a hazard to health or welfare or create a nuisance; [1993, c. 680, Pt. A, §37 (RPR).]

B. In the case of a disposal facility, the facility provides a substantial public benefit, determined in accordance with subsection 3-A, except that this paragraph does not apply to a facility owned by the State and in operation prior to June 1, 2007 or to an expansion of that facility; and [2007, c. 414, §2 (AMD).]

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. [2007, c. 583, §2 (AMD).]

[2007, c. 583, §2 (AMD) .]

1-A. Surface water protection. The department may not issue a license for a solid waste facility if it finds that the proposed facility will cause an unreasonable threat to the quality of a classified body of surface water. In determining whether the proposed facility poses an unreasonable threat, the department shall require the applicant to provide evidence demonstrating that:

A. The soils on the proposed facility site are suitable to the nature of the undertaking; [1995, c. 126, §1 (NEW).]

B. An appropriate erosion and sedimentation control plan has been developed and will be implemented on the site; and [1995, c. 126, §1 (NEW).]

C. The proximity of any classified surface water bodies to the proposed solid waste facility has been considered during the site selection process and during the development of the erosion and sedimentation control plan. [1995, c. 126, §1 (NEW).]

[1995, c. 126, §1 (NEW) .]

2. Finding of environmental suitability.

[1989, c. 585, Pt. E, §25 (RP) .]

2-A. Aquifer protection. The department may not issue a license for a solid waste disposal facility when it finds that the proposed facility overlies a significant sand and gravel aquifer or when the department finds that the proposed facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer it does not overlie, or to an underlying fractured bedrock aquifer.

A. "Significant sand and gravel aquifer" is defined as a porous formation of ice-contact and glacial outwash sand and gravel that contains significant recoverable quantities of water likely to provide drinking water supplies. [1993, c. 680, Pt. A, §37 (RPR).]

B. "Fractured bedrock aquifer" is defined as a consolidated rock formation that is fractured and that is saturated and recharged by precipitation percolating through overlying sediments to a degree that will permit wells drilled into the rock to produce a sufficient water supply for domestic use. [1993, c. 680, Pt. A, §37 (RPR).]

C. In determining whether or not the proposed facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer or to an underlying fractured bedrock aquifer, the department shall require the applicant to provide:

(1) A thorough hydrogeological assessment of the proposed site and the contiguous area including any classified surface waters, significant sand and gravel aquifers and fractured bedrock aquifers that could be affected by the proposed facility during normal operation or in the event of unforeseen circumstances including the failure of any engineered barriers to ground water flow. The assessment must include a description of ground water flow rates, the direction of ground water flow in both the horizontal and vertical directions, and the degree of dilution or attenuation of any contaminants that may be released from the proposed site and flow toward any classified surface water, significant sand and gravel aquifer or fractured bedrock aquifer. [1993, c. 680, Pt. A, §37 (RPR).]

[1993, c. 680, Pt. A, §37 (RPR) .]

2-B. Traffic movement.

[1993, c. 383, §36 (RP) .]

2-C. Proximity to residential areas.

[1991, c. 43, §1 (RP); 1991, c. 43, §4 (AFF) .]

2-D. Setback requirements for transfer stations. The department may not issue a permit or a license for a municipal solid waste transfer station unless the location of the handling site conforms to the following setback requirements.

A. For a transfer station on an island that is not connected to the mainland by a road, the department shall establish setback distances on a case-specific basis in accordance with this paragraph:

(1) No predetermined minimum setback from a property boundary, residence or public road established in statute or rule applies. A proposed setback from such a location must be reasonable and compatible with the abutting land use. If all abutting landowners give written approval to the location of the handling site, the department shall find that the proposed setback to a property boundary, residence or public road is reasonable and compatible with abutting land use. If all abutting landowners do not give written approval, the department shall make an independent determination of the reasonableness and the compatibility of the setback to a property boundary, residence or public road.

(2) No predetermined minimum setback from an active or closed landfill established in statute or rule applies. The proposed setback from an active or closed landfill must be reasonable and compatible with the abutting land use. The department shall make an independent determination of the reasonableness and compatibility of the proposed setback to an active or closed landfill.

(3) To the fullest extent possible, the department shall ensure that the handling site of a transfer station on an island is located in a manner that minimizes any adverse impact on the island residents. [1995, c. 73, §1 (RPR) .]

B. For all other transfer stations, the handling site may not be within 250 feet of any abutting property boundary, unless:

(1) The department finds the use of the abutting property to be compatible with the operation of a transfer station on the proposed location. If the department finds use of the abutting property to be compatible, the handling site may be within 250 feet of the boundary but not within 250 feet of any permanent structure on that abutting property; or

(2) The municipality obtains the written permission of all property owners within 250 feet of the proposed handling site. [1995, c. 73, §2 (AMD) .]

This subsection does not apply to transfer station permit or license renewals.

[1995, c. 73, §§1, 2 (AMD) .]

2-E. Automobile dismantling, recycling and salvage operations. The department may not issue a license for a solid waste facility that is larger than 3 acres in size and that is the location of automobile dismantling, recycling and salvage if the automobile dismantling, recycling and salvage operations take place within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the facility or the owner's or operator's abutting residence.

[1993, c. 680, Pt. A, §37 (RPR) .]

2-F. Siting standards. The department shall issue a license for a new or expanded solid waste facility when it finds that the following standards, in addition to any other requirements of this chapter, have been met.

A. The applicant has the financial and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this chapter. [1993, c. 680, Pt. A, §37 (RPR) .]

B. The applicant has made adequate provision for traffic movement of all types into, out of and within the proposed solid waste facility. The department shall consider traffic movement both on site and off site. In making its determination, the department shall consider the following factors:

(1) Vehicular weight limits;

(2) Road construction and maintenance standards;

(3) Vehicle type;

(4) Public safety and congestion on any public or private road traveled by vehicles transporting waste to or from the proposed facility; and

(5) Other relevant factors. [1993, c. 680, Pt. A, §37 (RPR) .]

C. The applicant has made adequate provision for fitting the proposed solid waste facility harmoniously into the existing natural environment and the proposed solid waste facility will not unreasonably adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities. [1993, c. 680, Pt. A, §37 (RPR) .]

D. The proposed solid waste facility will be built on soil types that are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment. [1993, c. 680, Pt. A, §37 (RPR) .]

E. The proposed solid waste facility will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur. [1993, c. 680, Pt. A, §37 (RPR) .]

F. The applicant has made adequate provision for utilities including water supplies, sewerage facilities, solid waste disposal and roadways required for the project, and the proposed solid waste facility will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services. [1993, c. 680, Pt. A, §37 (RPR) .]

G. The project will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to a structure. [1993, c. 680, Pt. A, §37 (RPR) .]

[1993, c. 680, Pt. A, §37 (RPR) .]

2-G. Setback requirement for land application and off-site storage of sludge. The department may not issue a license for a sludge land application site that is within 75 feet of a river, perennial stream or great pond. The department may not issue a license for a sludge storage site or storage facility off the site of generation that is within 250 feet of a river, perennial stream or great pond. Upon the written request to the department of a person who owns property that abuts a sludge land application site or storage facility, the department shall restrict the sludge application or sludge storage site to no less than 50 feet from that abutting property boundary. The board may establish other setbacks by rule.

[1999, c. 393, §5 (NEW) .]

3. Public benefit determination.

[1995, c. 465, Pt. A, §14 (RP); 1995, c. 465, Pt. C, §2 (AFF) .]

3-A. Public benefit determination. Public benefit determination is made in the following manner.

A. For the following facilities, the department determines public benefit and shall employ a rebuttable presumption of public benefit:

(1) Solid waste disposal facilities less than 6 acres in size that accept only inert fill, construction and demolition debris, debris from land clearing and wood wastes; and

(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, waste not generated by the owner provided that the amount so accepted does not exceed 15% of all solid waste accepted on an annual average. [1995, c. 465, Pt. A, §15 (NEW); 1995, c. 465, Pt. C, §2 (AFF) .]

B. For all other facilities, the commissioner shall make the determination of public benefit in accordance with section 1310-AA, and the commissioner's determination under that section is not subject to review by the department or the board as part of the licensing process under this section. [1995, c. 465, Pt. A, §15 (NEW); 1995, c. 465, Pt. C, §2 (AFF) .]

[1995, c. 465, Pt. A, §15 (NEW); 1995, c. 465, Pt. C, §2 (AFF) .]

4. Presumption of public benefit.

[1989, c. 585, Pt. E, §27 (RP) .]

5. Recycling and source reduction determination.

[2007, c. 583, §3 (RP) .]

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: