

Department of Environmental Protection
Chapter 375: No Adverse Environmental Effect Standards of the Site Location of
Development Act
Basis Statement and Response to Comments
December 10, 2015

The Department is amending Chapter 375 to incorporate updated requirements that are currently contained within Chapter 373. These standards, which address solid waste, the control of odors and the procurement and maintenance of sufficient and healthful water supplies are more appropriately contained within Chapter 375, since they address environmental impacts. In addition to the relocation of the three provisions, some clarifications and minor updates are proposed

The Department posted the rule for public comment on September 23, 2015, and held a public hearing on October 15, 2015. The comment period ended October 26, 2015 at 5:00 pm. No persons commented at the public hearing and two persons submitted written comments. Written and/or oral comments were received from the following persons:

- A. Roland Arsenault, Catalyst Paper
- B. Juliet Browne, Verrill Dana

In addition to any changes detailed below, the Department made other non-substantive changes after consultation with the Maine Office of Attorney General.

Comments and Responses

Comments below are grouped according to topic, and may be abbreviated, paraphrased, and/or consolidated. In some cases, typographical or other minor errors in comments have been corrected. Letters in parentheses following a comment refer to the person(s) who submitted the comments.

1. Comment: The commenter notes that at the October 15, 2015 public hearing a suggestion was made that section 16(A), regarding adequate provision for solid waste “disposal,” be broadened to reference solid waste “management” so as to include Beneficial Use projects licensed under Chapter 418 of the Department’s Solid Waste Management Rules. The commenter objects to this change, arguing that Chapter 418 sufficiently addresses any concerns related to Beneficial Use projects and modifying Chapter 375 as proposed would create unnecessary and duplicative regulations, and result in confusion for both the regulated community and the Department. (A)

Response: The proposed language is consistent with the language of the Site Law at 38 M.R.S. §484(6) which uses the term “dispose.” The proposed language, which is being moved from the existing Chapter 373 to Chapter 375 doesn’t preclude beneficial use. All activities allowed under the sections of current Chapter 373 dealing with adequate provision for solid waste disposal will continue to be permitted under proposed Chapter 375 section 16(A); in practice this has not precluded the beneficial reuse of waste products nor

has it caused confusion for the Department. No changes were made in response to this comment.

2. Comment: The commenter notes the applicability language of the sound rules for wind energy developments does not state whether the rules apply to the entirety of the wind energy development or just the wind turbine sound. The commenter suggests the following underlined additions. (B)

This subsection applies to sound generated from wind turbines that are part of grid-scale wind energy developments as defined by 35-A M.R.S.A. § 3451(6) and small-scale wind energy developments governed by 35-A M.R.S.A. §3456, hereinafter referred to as “wind energy developments.” The provisions in Section 10(C)(1), 10(D)(2), 10(F), and 10(H) of this Rule do not apply to sound generated from wind turbines that are part of wind energy developments.

Response: Section 10(I) of Chapter 375 of the Department’s rules “Sound Level Standards for Wind Energy Developments” is beyond the scope of the Department’s proposed rulemaking; at this time the Department does not plan to propose changes to the sound level standards for wind energy. Further, the commenter’s proposed changes fails to adequately address other sounds associated with wind energy development, such as substations and transformers. The Department does not agree that such a change is warranted. No changes were made in response to this comment.